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CATHOLIC PRINCIPLES OF POLITICS

Revised Edition of
"The State and the Church"

BY

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PREFACE

The following paragraph is taken from the preface to "The State and the Church":

> We have attempted to furnish a substantially adequate discussion of all the religious and moral aspects of the State. We have tried to answer the following and kindred questions: What is the State? What is its relation to the Church? What is the ethical basis of government? Whence do civil ruléis obtain their moral right to rule? Do governments "derive their just powers from the consent of the governed?" . . . Does the individual exist for the State, or the State for the individual? Should the State be merely a limited policeman? or a universal provider of every good thing? or something between these extremes? Are the ordinances of the State merely civic counsels with the intermittent sanction of physical force, or are they true moral law's? What are the duties and what are the rights of the individual citizen? What is the normal Catholic attitude toward the American State and American political institutions? What is the rational meaning of patriotism? What manner of spirit must animate the nations if they would restore and preserve international peace?

All the foregoing questions are dealt with in the present volume, and some of them receive more extensive and fundamental treatment. Chapters I to V, inclusive, are entirely new, as are also Chapters VII, XI, XII, XVIII, XX and parts of IX and XVII. In general, the new material provides a more philosophical basis for some of the doctrines and a more comprehensive discussion of others; the presentation of concepts and doctrines which did not find a place in the first edition; a greatly amplified treatment of international relations, both in peace and in war, and recent pronouncements by the Holy Father and by the American Hierarchy. Owing to these additions and changes, "Catholic Principles of Politics" is much better adapted to the requirements of the class room than was "The State and the Church." Because the present volume is designed not only for the general reader but also as a college text, it does not include the three very able

chapters contributed to the original edition by the Rev. Moorhouse F. X. Millar, S.J.

"Ethical Aspects of Politics" would not have been an inaccurate title, for the underlying principles are found in or derived from the natural moral law. However, the interpretation and the applications of the natural law which the work presents are Catholic. Aristotle, Sophocles, Cicero and many other able pagans accepted the natural law, but none of them, nor any other non-Catholic writer, has expounded and developed its principles and conclusions as clearly, as comprehensively and as authoritatively as the Catholic Church. Hence we have called the work "Catholic Principles of Politics." And wc trust that our own endeavors to apply the natural moral law to the complex relations between citizen and citizen, between the citizen and the State and among the States themselves are in complete harmony with Catholic teaching.

Washington,
August 1,1940.

John A. Ryan
Francis J. Boland

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CATHOLIC PRINCIPLES OF POLITICS

Chapter I

THE NATURAL LAW

There arc some who deny the existence of natural law and ridicule the term as outmoded, anti-modern, and possessing merely an historical interest. Conceptions of the natural law and of natural rights were peculiar to the Schoolmen, it is averred, but are without legitimate place in modern moral philosophy and politics. No substitute exists, however, for the natural law, as a fundamental basis for a rational ethical system, and the result is that much of modern political thought, from the view of ethics, is without, principle. Politics, without the natural law' as an ethical basis, finds ultimate expression in the absolute or totalitarian State which denies the traditional determinants of morality and makes the fiat of the State the moral law. Political philosophy that rejects the principles of natural law', must also reject the principle that the human personality is a distinct entity, created by God, with rights and duties and destined for an eternal end with God.

Concerning the essence of law' St. Thomas states: "Law is a rule and measure of acts, whereby man is induced to act or is restrained from acting: for *lex* (law) is derived from *ligare* (to bind), because it binds one to act. Now' the rule and measure of human acts is the reason, which is the first principle of human acts . . . since it belongs to the reason to direct to the end, which is the first principle in all matters of action. . . . Law is nothing else than an ordinance of reason for the common good, made by him who has care of the community, and promulgated."

Regarding the natural law, St. Thomas says that it is nothing else than "the rational creature's participation in the eternal law'." Since, then, the natural law is defined in terms of the eternal law, the question arises, What is meant by the eternal law? Hu-

man creatures cannot know the eternal law in its totality because it is, in a sense, "the full mind of God." We can, however, know part of the eternal law through reason, which is the natural law, and another part is known through revelation.

Explaining the eternal law, St. Thomas writes: "Now God, by His wisdom, is the Creator of all things, in relation to which He stands as the artificer to the products of his art. . . . Moreover He governs all the acts and movements that are to be found in each single creature. . . . Wherefore as the type of the Divine Wisdom, inasmuch as by It all things are created, has the character of art, exemplar or idea; so the type of Divine Wisdom, as moving all things to their due end, bears the character of law. Accordingly the eternal law is nothing else than the type of Divine Wisdom, as directing all actions and movements. . . . The whole community of the Universe is governed by Divine Reason. Wherefore, the very idea of the government of things in God the Ruler of the Universe, has the nature of law. And since the Divine Reason's conception of things is not subject to time, but is eternal . . . therefore it is that this kind of law must be called eternal. Every rational creature knows it (the eternal law) in its reflection, greater or less. For every knowledge of truth is a kind of reflection and participation of the eternal law which is unchangeable truth. . . . Wherefore, since all things subject to Divine providence are ruled and measured by the eternal law, it is evident that all things partake somewhat of the eternal law, in so far as, namely, from its being imprinted on them, they derive their respective inclinations to their proper acts and ends. . . . Wherefore, it (the rational creature) has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end: and this participation of the eternal law in the rational creature is called the natural law." [1]

Father Rickaby gives an excellent analysis of the eternal law when he writes: "We have to learn to look upon the whole created universe and the fullness thereof, angels, men, earth, sun, planets, fixed stars, all things visible and invisible, as one great and perfect community, whose King and Lawgiver is God. He is King,

[1] *Summa Theologica,* Prima Secundae, citations from Qs. 90, 93, 94; translation by the Fathers of the English Dominican Province, Vol. 8.

because He is Creator and Lord. But lordship and kingship are different things, even in God. It is one thing to be lord and master, owner and proprietor of a chattel, property and domain: it is another thing to be king and governor, lawgiver and judge of political subjects. The former is called *power of dominion,* or right of ownership, the latter is *power of jurisdiction.* Power of dominion is for the good of him who wields it: but power of jurisdiction is for the good of the governed. As God is Lord of the universe, He directs all its operations to His own glory. As He is King, He governs as a king should govern, for the good of His subjects. In intellectual creatures, whose will is not set in opposition to God, the subject's good and the glory of the Lord finally coincide. . . . *God wills to bind His creatures to certain lines of action,* not arbitrary lines, but the natural lines of each creature's being. . . . It (the eternal law) comprises the laws of physical nature and the actions of physical causes, no less than the moral law and human acts. It is the one primeval law of the universe, antecedent to all actual creation, and co-eternal with God. And yet not necessary as God: for had God not decreed from all eternity to create—and He need not have decreed it—neither would He have passed in His own Divine Mind this second decree, necessarily consequent as it is upon the decree of creation, namely, that every creature should act in the mode of action proper of its kind. This decree, supervening from eternity upon the creative decree, is called the Eternal Law. . . . The one Eternal Law embraces all the laws of creation."[2]

The eternal law, therefore, it may be said, is God's directive power over all things in existence in heaven and in the universe, so that every created thing moves, acts or exists, according to the nature that God has created in it. Man alone of all creatures in the world, is able to comprehend, through his reason, a part of this eternal law which, as applicable to human beings, is the natural law. Hence, St. Thomas says that the natural law is the rational creature's participation in the eternal law. Through the natural law, man participates in the eternal law "proportionately to the capacity of human nature."

3 Rickaby, Joseph, SJ., *Moral Philosophy,* pp. 128-131.

In explaining the nature of the eternal law, Doctor Cronin writes: "The Eternal law is the law of God as directing the whole Universe to its end. By it God rules all His creatures, and directs them to their final end, which is Himself. There is nothing which does not come under this law . . . neither plant, nor animal, nor man, nor angel; for Divine Providence extends to all. . . . The Eternal law itself is prior to every other law . . . to natural and to human law . . . it is the ground and principle of every other law." [7]

The natural law is essentially ethical and applies only to the free acts of man. Man's physical nature, it is true, operates according to law. Time produces changes in the human body, regardless of the thought or action of the individual. The purely physical, involuntary movements of human nature are not, however, in the strict sense, of the natural law. The latter is a law determining the morality of human actions, as known by man's reason. The natural law may be defined as: a necessary rule of action, determined by rational nature, imposed by God as author of nature, and perceived intuitively. It is a necessary rule of action because without it man would have no basic moral guide or standard and could not live a rational life. Man is a rational being because the law, ordained by God determining his nature, the natural law, makes him a rational being.[4]

There are certain exigencies, requirements, or rules of conduct, that bind human beings everywhere and under all circumstances and conditions of life. These arc called *primary principles* of the natural law. Man is never free to disregard them, with impunity, because they are obvious dictates of his rational nature and commanded by his conscience at all times. The fundamental, general, primary principle of the natural law, according to St. Thomas is that *"good is to be done and ensued, and evil is to be avoided."** All other principles follow from this. Specifically, other primary principles are: "Adore God," "Do not steal,"[8]

[7] Cronin, Michael J., *The Science of Ethice,* Vol. I, p. 604.

* Some moralists refer all of man's actions, including the purely involuntary, to the natural law, but the majority of authors limit the scope of natural law to man's rational nature.

[8] *Op. dt.,* Q. 94, A. 2.

"Do not murder," "Honor parents," "Protect health," "Do not commit adultery." These rational rules of action must always be observed for the preservation of the moral order.

In addition to the primary principles, there are secondary principles of the natural law, "the observance of which," Doctor Fox states, "contributes to the public and private good and is required for the perfection of moral development, but is not so absolutely necessary to the rationality of conduct that it may not be lawfully omitted under some special conditions."* The State, for example, might be obligated, under the secondary principles of the natural law, to pass a minimum wage act which would contribute to the moral development of the citizens, but due to special circumstances could refrain, temporarily, from fulfilling its obligation in enacting the law.

Regarding knowledge of the natural law, the common Catholic teaching is that the essential, primary principles are known to all men through their rational nature. St. Paul says that the law is written in the hearts of men. "For when the Gentiles, who have not the law, do by nature those things that are of the law, these having not the law are a law to themselves: who shew the work of the law written in their hearts. . . ."† And St. Thomas says: "There belong to the natural law, first, certain most general precepts, that are known to all; and secondly, certain secondary and more detailed precepts, which are, as it were, conclusions following closely from the first principles. As to those general principles, the natural law, in the abstract, can nowise be blotted out from men's hearts. But it is blotted out in the case of a particular action, in so far as reason is hindered from applying the general principles to a particular point of practice, on account of concupiscence or some other passion. . . ."‡

The natural law is the only fundamental basis for sound moral judgments. There must be such a basis, external to the individual, for making correct ethical decisions, otherwise all morality would be purely subjective. The natural law, written in the nature of man and known through reason, is the objective basis of morality.

* *The Catholic Encyclopedia,* Fox, James J., article, "Natural Law."
† *Romans,* 11, 14-15.
‡ *Op. cit.,* Q. 94, A. 6.

Moral judgments may be true or false. Obviously the latter kind is not objective in the sense of conforming with reality. A false moral judgment is not a correct representation of the relation which it professes to describe. Nevertheless, it is thought to be so by the person who makes it. He does not intend to perform a purely subjective act.

There is an important sense in which even false judgments are objective. For the sake of illustration, let us assume that the theory of individualistic hedonism is irrational and false. Let us assume that not every act is good which brings pleasure to the performer. It is immoral to commit rape, regardless of the pleasure which the act may bring to the aggressor. But if the latter maintains that the true norm of conduct is individual pleasure, as so estimated by the individual himself, his judgment is not purely subjective or arbitrary. It rests upon something outside his mental processes. He derives it from the intrinsic relation which he supposes to exist between human actions and individual satisfaction. In his opinion, one's own pleasure is the supreme good, supreme end, which a person can rationally seek. The act in question gives him pleasure. Therefore, it is rational and morally good. Obviously the considerations which lead to this judgment are objective in a very important sense, even though they are not objective in the sense of agreeing with ethical reality.

The same statement is true of judgments which repose on any other theory of moral good. The most extreme form of intuitionism does not constitute an exception. A man may think that he has an immediate perception of all moral truths, whether through a special faculty called the moral sense, or through the general faculty of the intellect; nevertheless, his ethical judgments will not be purely subjective. His fundamental assumption is false, his method is hopelessly wrong, but he regards the moral good as objective and the moral aspect of acts as an objective relation. He does not hold that his apprehension creates physical objects. He believes that acts are, respectively, good and bad because they agree or disagree with some objective standard of conduct. The method by which he arrives at ethical judgments is, indeed, too simple and too subjective, but the judgments them-

selves are assumed by him to rest ultimately upon an objective foundation.

If the intuitionist be incapable of objective judgments, so is the adherent of any and every other ethical system. At some stage of his reasoning every moralist necessarily falls back upon intuition. This is true even of the evolutionist and the utilitarian. They may protest against this imputation; they may protest that their system and method are uniquely scientific; and they may assert that they recognize no other basis for moral judgments than experience. Nevertheless, the basis always includes an intuitive premise, /kt most, experience can do no more than show that certain actions are conducive to social evolution or social utility. It cannot tell whether either of these is the supreme good, or whether conduct which promotes them is morally good. These assumptions arc not susceptible of experimental demonstration. They are among those elementary propositions which are either self-evident or unconvincing. If I deny that the welfare of society is the norm and end of conduct—as a matter of fact I do deny it—you do not profess to be able to prove it by experience. You can only reply that you are satisfied to take the proposition on faith, that it is a self-evident first principle which you grasp by immediate perception, by intuition. You may deplore my mental astigmatism or my moral obstinacy, but you cannot get out of experience the material necessary to demonstrate that social evolution or social utility is the end of human conduct. Experience can tell us what is, what has been, what is likely to be, but it yields no fundamental information on the question of what ought to be.

If the method of intuition deprives ethical judgments of objectivity, then all the judgments of all the moralists are without objective character. Particular judgments are as subjective as general judgments; for they all rest ultimately upon an intuitive assumption. To search for an objective basis of moral judgments is, in that hypothesis, to pursue an ethical will-o'-the-wisp.

The true basis of ethical judgments is ascertained through an inquiry into the end or norm of conduct. The words "end or norm" denote a two-fold manner of conceiving the fundamental

ethical determinant. It may be stated as the end to which acts should be directed, or as the standard with which they should conform. In any particular ethical system, the two conceptions will lead to the same specific judgments. They merely present different relations of the same actions. The one denotes conducivencss; the other, conformity. An act which conduces to the end will necessarily agree with the norm.

All human acts are directed to some end. Hence, any given act derives its primary meaning and character from the end which it promotes. No act will be good unless it aims at an end which is reasonable. What, then, is the supreme rational end? For answer we turn to the nature of man and his place in the universe, to the natural law'. We cannot find the answ'cr in the nature and relations of some other kind of creature. Through an examination of his nature we realize that man seeks indefinite satisfaction, complete happiness. The human will has the capacity of desiring everything presented to it by the intellect as good. Now the intellect conceives good as unlimited in quantity, quality, and time. Its capacity to conceive good cannot be filled by any combination of things finite. Neither can man's desires be fully satisfied in this finite world.

This conclusion from man's psychological constitution is confirmed by abundant human experience. The incompetence of finite goods to make men happy has long been a commonplace in the literature of all peoples.

Since the universe, including man, was created by an infinitely wise, good and truthful God, this condition of perfect human happiness must somewhere be attainable. Since it is not to be found in this world, it must exist in the world beyond the grave. Since it comprises all conceivable good and perfection, it can be nothing less than some kind of association with God Himself. Hence the ultimate end of human conduct is union with God in eternity.

Acceptance of this truth docs not, however, provide us with an adequate criterion of morality, an adequate basis of right ethical judgments. We may know' the end and yet be ignorant of the way. The consciousness that we are obliged to fit ourselves for union with God in another life docs, indeed, show us that

blasphemy, for example, is wrong, but it does not clearly and immediately justify the same verdict upon unchastity, uncharity, and injustice. In order to obtain a complete criterion of the morality of actions we are compelled to examine man's nature from another point of view than that of its ultimate end. We turn to concept of the norm.

In a physical sense, man's nature is the necessary norm of his acts. Even the most injurious and detestable of man's deeds are in physical conformity with his nature. Every human act responds to some natural desire, is the expression of some natural capacity. If human nature in this physical sense were the standard of conduct, it would justify every sort of action and implicitly deny the reality of moral distinctions and moral judgments.

Analyzing man's nature a little deeper, we find that acts which are generally pronounced bad, although they conform with human nature in the narrow physical sense just described, are in conflict with other elements of human nature; for example, the habitual use of narcotics, numerous other practices which are injurious to health, and those acts of sensual indulgence which cause intellectual degeneration. In other words, the exercise of some faculties in some circumstances interferes with the exercise of other faculties. Yet both sets of faculties are constituent elements of human nature and have rational claims to consideration.

The difficulty can be solved only by assuming a certain order, or hierarchy, among the faculties. Some faculties must be subordinated to others, and every faculty must be exercised consistently with the welfare of the whole man. Accordingly the norm of conduct and the true basis of moral judgments may be formulated thus: rational nature adequately considered; that is, in its constitution and essential relations.

Examining man's constitution, we find that the rational part is intrinsically higher than the animal part. The latter is merely an instrument. Its value is determined by its utility for the rational part and for the whole. In case of conflict between the rational faculties and the sense faculties, the former must be preferred. The sense faculties must be exercised in such a way as not to hinder the exercise and development of the rational

faculties. From this principle we derive our moral condemnation of such acts as drunkenness and solitary unchastity.

The essential relations of rational nature are threefold: to a higher Being, to lower beings, and to equals. The first relation requires recognition, obedience, and worship rendered to God. The second authorizes man to use the lower creatures, animals, plants, and minerals, as mere instruments for his own welfare. The third relation connects the individual with his fellow men. It requires him to treat them as equals, as having the same intrinsic worth, the same nature, the same needs, and the same rights. They are always to be regarded as ends in themselves, never as mere instruments. From this relation follow the duties of charity, justice, veracity and all the virtues that are required by the various forms of human association.

With regard to the implications of the principle of equality for organized groups, we may take the example of the State. Since the State is in accord with and required by rational nature, it has a moral claim upon the loyalty and support of its members. But it is not an end in itself. It is but a means to the welfare of individuals. In times of grave danger to the community, it may properly require grave sacrifices from its members, but it may never use any of them as mere means to its assumed welfare. If it did so it would subordinate intrinsically sacred beings either to a mere abstraction or to a part, albeit a majority, of its members. The latter have not greater intrinsic worth than the persons whose rights have been ignored.

Thus conceived, rational nature constitutes a reasonable norm of conduct and a reasonable basis of objective moral judgments. It is consistent with all genuine human needs and human development. To be sure, it docs not insure uniform judgments on all the details of conduct. Some of the world's ablest thinkers have accepted this norm of conduct and the general principles which it involves, and yet have disagreed on many questions of practical application. However, this limitation affects every ethical system and indeed, every practical science: witness the disagreements among authorities in medicine, economics and politics.

The authority of rational nature may also be described in terms of teleology. Morally good acts may be defined as those

which further the end to which rational nature tends; namely, the development and perfection of personality. This is the proximate end. Since it is morally good, morally obligatory and supremely reasonable, it is obviously in harmony with and conducive to the ultimate end; namely, cognitive and affective possession of God in eternity. If this agreement did not exist, God would have contradicted Himself: for He would have provided an ultimate end which demanded a different line of conduct from that required by the equally obligatory proximate end. This contradiction is unthinkable in an all-wise Creator. Hence, the fundamental principle of morality, the basis of ethical judgments, may be stated either as end or as norm; the end and the norm are necessarily correlative, and the particular judgments which they dictate arc necessarily identical.

It may be objected that man's nature cannot provide an enduring objective basis of moral judgments, since man himself is subject to continuous evolution and change. To this a sufficient reply is that when man becomes converted into an essentially different creature, for example, an angel or a gorilla, his new nature will require an essentially different set of rules. Until that happens, rational nature will continue to be the same satisfactory norm of conduct that it has been throughout all recorded history everywhere. Its application will continue to require that account be taken of the varying circumstances of human life and development. In its main outlines, however, this moral system will fit the needs of the man of tomorrow as well as the man of today and yesterday, because it is based on the natural law.

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Chapter II

NATURAL RIGHTS

A right in the moral sense of the term may be defined as an inviolable moral claim to some personal good. When this claim is created, as it sometimes is, by civil authority it is a positive or legal right; when it is derived from man's rational nature it is a natural right. All rights are means, moral means, whereby the possessor of them is enabled to reach some end. Natural rights are the moral means or opportunities by which the individual attains the end appointed to him by nature. For the present it is sufficient to say that this end is right and reasonable life. The exigencies of right and reasonable living, therefore, determine the existence, and number, and extent of man's natural rights. Just as his intellectual, volitional, sensitive, nutritive and motive faculties arc the positive, or physical, agencies by which he lives and acts as a human being, so his natural rights are the *moral* faculties requisite to the same end. He cannot attain this end adequately unless he is regarded by his fellows as morally immune from arbitrary interference. They must hold themselves morally restrained from hindering him in the reasonable exercise of his faculties. His powers of intellect, will, sense, nutrition and motion will be of little use to him if his neighbors may licitly deprive him, whenever it may suit their convenience, of his external goods, or his liberty, or his members, or his life. In addition to his positive powers, he stands in need of those moral powers which give to his claim upon certain personal goods that character of sacredness which restrains or tends to restrain arbitrary interference by his fellows.

Man's natural rights are absolute, not in the sense that they are subject to no limitations—which would be absurd—but in the sense that their validity is not dependent on the will of any-

one except the person in whom they inhere. They are absolute in existence but not in extent. Within reasonable limits their sacredness and binding force can never cease. Outside of these limits, they may in certain contingencies disappear. If they were not absolute to this extent, if there were no circumstances in which they were secure against *all* attacks, they would not deserve the name of rights. The matter may be made somewhat clearer by one or two examples. The right to life is said to be absolute because no human power may licitly kill an innocent man as a mere means to the realization of any end whatever. The life of the individual person is so sacred that, as long as the right thereto has not been forfeited by the perverse conduct of the subject himself, it may not be subordinated to the welfare of any other individual or any number of individuals. Not even to preserve its own existence may the State directly and deliberately put an unoffending man to death. When, however, the individual is not innocent, when by such actions as murder or attempted murder he has forfeited his right to live, he may, of course, be rightfully executed by civil authority, or killed in self-defense by his fellow man. He may also be compelled to risk his life on behalf of his country, for that is a part of his duty; and he may with entire justice be deprived of life indirectly and incidentally, as when noncombatants are unavoidably killed in a city that is besieged in time of war. Again, the rights to liberty and property are not absolute in the sense that the individual may have as much of these goods as he pleases and do with them as he pleases, but inasmuch as within reasonable limits—which are always determined by the essential needs of personal development—these rights arc sacred and inviolable.

With respect to their natural rights, all men are equal, because all are equal in the rational nature from which such rights arc derived. By nature every man is a person, that is, a rational, self-active, independent being. Every man is rational because endowed with the faculties of reason and will. His will impels him to seek the good, the end, of his being, and his reason enables him to find and adjust means to this end. Every man is self-active, inasmuch as he is master of his own faculties and able in all the essentials of conduct to direct his own actions.

Every man is independent in the sense that he is morally complete in himself, is not a part of any other man, nor inferior to any man, either in the essential qualities of his being or in the end toward which he is morally bound to move. In short, every individual is an "end in himself," and has a personality of his own to develop through the exercise of his own faculties. Because of this equality in the essentials of personality, men arc of equal intrinsic worth, have ends to attain that are of equal intrinsic importance, and consequently have equal natural rights to the means without which these ends cannot be achieved.

Only in the abstract, however, are men's natural rights equal. In the concrete they are unequal, just as are the concrete natures from which they spring.[1] This is not to say that equality of rights is an empty abstraction, without any vital meaning or force or consequences in actual life. Men are equal as regards the *number* of their natural rights. The most important of these are the rights to life, to liberty, to property, to a livelihood, to marriage, to religious worship, to intellectual and moral education. These inhere in all men without distinction of person, but they have not necessarily the same *extension,* or content, in all. Indeed, proportional justice requires that individuals endowed with different powers should possess rights that vary in degree. For example, the right to a livelihood and the right to an education will include a greater amount of the means of living and greater opportunities of self-improvement in the cases of those who have greater needs and greater capacities. But in *every* case the natural rights of the individual will embrace a certain minimum of the goods to which these rights refer, which minimum is determined by the reasonable needs of personality. The rights that any person will possess in excess of this minimum will depend upon a variety of circumstances, individual and social. Hence, instead of saying that the natural rights of all men are equal in the abstract but not in the concrete, it would perhaps be more correct, or at least less mis-leading, to describe them as equal in kind, number and sacrcdness, and in extension relatively

[1] For an explanation of the distinction between abstract or specific and concrete or individual equality, sec Taparclli, *Droit naturel,* nos. 354-363, and Naudet, *La democratic,* Chap. XV.

to their particular subjects; but not in quantity nor in *absolute* content.

Such in bare outline is the theory of the character, purpose, and extent of natural rights. Do they really exist? Is the individual really endowed with moral prerogatives, inviolable claims, in virtue of which it is wrong, for instance, to take from him, so long as he is innocent of crime, his life or his liberty? Whence comes the validity and sacredness of these claims? The answers to these questions have already been briefly indicated in the statement of the *end* for which the claims exist. Natural rights are necessary means of right and reasonable living. They are essential to the welfare of a human being, a person. They exist and are sacred and inviolable because the welfare of the person exists—as a fact of the ideal order—and is a sacred and inviolable thing. It was Cicero who wrote: *"Fine in philosophia- constituto, constituta sunt omnia:"* In problems of philosophy, when we have established the end we have established all things else. Let us look more deeply, then, into the scope and character of this end to which natural rights are but means.

Right and reasonable life, the welfare of the person, consist in the development of man's personality through the harmonious and properly ordered exercise of his faculties. He should subordinate his sense-faculties to his rational faculties; exercise his rational faculties consistently with the claims of his Creator and the reasonable demands of his fellows; and seek the goods that minister to the senses and the selfish promptings of the spirit in subordination to the higher goods, namely, those of the intellect and of the disinterested will. In a word, the supreme earthly goal of conduct is to know in the highest degree the best that is to be known, and to love in the highest degree the best that is to be loved. These highest objects of knowledge and love are God, and, in proportion to the degrees of excellence that they possess, His creatures. To prove that these moral and spiritual values arc facts, we have only to appeal to the consciousness of any normally constituted human being. The average man has an abiding conviction that the rational faculties are higher, nobler, more excellent, of greater intrinsic worth than the sense-faculties; that consequently the goods of the mind are to be preferred to those

of the senses; and that among the activities of the rational powers those dictated by disinterested love are intrinsically better than those which make for selfishness. These primary and general moral intuitions produce in the mind of the person who heeds them the conviction that it is not only reasonable but *obligatory* for him to pursue the path of conduct thus dimly outlined. The immediate objective basis of this obligation is the intrinsic superiority of the higher faculties, the infinite worth of God, and the essential sacredncss of human personality. The ultimate source of the obligation is the Will of God; just as the ultimate source of the distinction between the higher and lower faculties, activities, and goods is the Divine Essence; and just as the ultimate source of the intuitions by which we perceive these distinctions is the Divine Reason.

Since, therefore, the individual is obliged to live a moral and reasonable life in the manner just described, the means to this end, *i.e.,* natural rights, are so necessary and so sacred that all other persons than the one in whom they reside are morally restrained from interfering with or ignoring them. The dignity of personality imposes upon the individual the duty of self-perfection; he cannot fulfill this duty adequately unless he is endowed with natural rights. Such is the immediate basis of natural rights and the proximate source of their sacredness; their ultimate source is to be found in the Reason and Will of God, who has decreed that men shall pursue self-perfection and that they shall not arbitrarily deprive one another of the means essential to this purpose.

This method of basing the individual's natural rights upon his duties is perhaps the one most commonly employed by those writers who hold individual perfection to be the immediate end and rule of conduct. According to another mode of reasoning, they rest, not upon the duties of their possessor, but upon those duties of other men toward him which arc called *juridical,* that is, the "other-regarding" duties that cover goods which in the strict sense *belong* to him as his own. Thus the fulfilment of lawful contracts is a juridical duty, while assisting the needy is only a duty of charity. All juridical duties may be summed up in the command, "thou shalt not arbitrarily interfere with

the external liberty of thy fellow man," for external liberty comprises all those opportunities of activity, acquisition and possession that are essential to the pursuit of reasonable self-perfection. Corresponding to and implied by these juridical duties in one man are those moral prerogatives in other men that we call natural rights. The foundation and source of these duties is that precept of the natural law (understanding by natural law that portion of God's eternal law which applies to human conduct and is written in the human reason) which enjoins men to respect the dignity of human personality in one another.[2]*

This line of argument, however, suggests that not even the juridical duties of men are formally necessary as a basis and justification of natural rights. These duties are, indeed, imposed upon man by the natural law, but the reason why this particular precept of the law exists, as well as the reason that constrains us to believe that it does exist, is to be found in the intrinsic and inviolable worth of the individual. That is the ultimate basis—on this side of God—of both *juridical duties* and *natural rights.* To prove the existence of the latter, it seems, therefore, logically sufficient to show that because of his intrinsic dignity a person is morally *privileged* to pursue self-perfection, and his fellows are morally restrained from hindering his exercise of the privilege. Natural rights may be likened to the legal right by which a man holds a piece of land that he has bought from the State. His claim thereto is founded neither upon his duty to support his family (to which end the produce of the land may be assumed to be the necessary means) nor upon the obligation which binds his neighbors to leave him in undisturbed possession. Similarly, the individual's natural rights may be regarded as independent both of his own duties and of the duties which these rights occasion in his fellows.[3]

Finally, natural rights can be logically defended on the principles of what may be called intuitive hedonism. There are men who maintain that the supreme end and rule of conduct is uni-

2Cf. Costa-Rosetti, Julius, *Philosophia Moralis, 2d* edition, thesis 114.

»Cf. Janet, Paul, *The Theory of Morals,* Book II, Chap. IV, in which the author defends a doctrine very similar to the one just outlined, although he strangely calls a right a "responsibility."

versal happiness. By this phrase they mean, not "the greatest happiness of the greatest number," nor the general happiness of the group or of society—all of which are equivalent in the concrete to the happiness of the majority—but the happiness of each and every human being. They insist that, since human happiness is the good of a person, it has *intrinsic worth,* is in itself a sacred thing, and that all individuals have, therefore, essentially equal claims to the opportunity of pursuing it. This doctrine is hedonistic, inasmuch as it makes happiness the ultimate end, and intuitive, inasmuch as it postulates not merely the desirableness of personal happiness, but the intrinsic worth of all human happiness. Professor Sidgwick held substantially this view, although he admitted that it contains an inherent contradiction.[4] For if the intuition of "rational benevolence" be acknowledged as logically sufficient to compel me to forego my own happiness for the greater happiness of others, then the ultimate end, rule and determinant of right action is no longer *my* happiness—which is the only "desirable consciousness" that can have any meaning for me—but conformity to the dictates of reason. In other words, *reason* assures me that human happiness is valuable *per se,* while all my aspirations and experiences tell me happiness is a good only in so far as it provides *me* with agreeable states of consciousness. If, however, the general principle be admitted in spite of its inherent weakness, a system of natural rights can be logically deduced therefrom.

All of these methods, therefore, posit as the ultimate earthly basis of the individual's natural rights the inherent sacredness of his personality. This is true even of the argument which derives rights from the duty of perfecting one's self; for this duty is itself founded upon the intrinsic worth of the person, specifically of his higher faculties. Hence we find that those who reject the doctrine of natural rights, and who reason logically, reject likewise the principle of the essential and absolute dignity of every human being. They either deny that anything in the universe possesses intrinsic worth, or assert that social welfare is the highest good. To the former class belong the be-

[4] Sidgwick, Henry, *Methods of Ethics,* Book III, Chaps. XIII and XIV; and Book IV, concluding chapter, 6th ed.

lievers in egoistic hedonism; to the latter, the social utilitarians and the Hegelians.

For those who maintain that the supreme end of life and rule of conduct is one's own happiness, there can, of course, be no such thing as a right in the *moral* sense of the term. There is no sacredness, no intrinsic worth, no obligation-compelling force in either the concept or the fact of happiness unqualified and divorced from all consideration of the dignity of personality. The person who refuses to seek his own happiness can be condemned as unwise but not as immoral. And if he is not, in any true sense of the word, under moral obligation to procure happiness for himself, neither is he bound by any sort of duty to respect or refrain from hindering the happiness of others. As there is no sacredness in the end—happiness—and none in the persons pursuing it, so there can be no sacredness in the means—those opportunities of activity that we call rights—and no obligation to respect them. In such a system individual rights have neither logical foundation nor intelligible meaning. Again, if personal happiness be the ultimate aim and criterion of reasonable conduct, it is altogether fitting and reasonable that each man should interpret happiness in his own way, and strive to obtain it by whatever means seem to him best, regardless of such unreasonable and unfounded restraints as rights and obligations.

This purely egoistic hedonism seems to be completely and consistently accepted by only a very small minority of the world's thinkers. Even with them it is a merely speculative belief. In practice they reject or at least modify it, in common with the overwhelming majority of the men and women who live outside of lunatic asylums. A formal refutation of it in the interest of the doctrine of natural rights is, therefore, unnecessary. Of much greater importance for our contention is the theory that all rights are positive, that is, derived from society, and conferred upon the individual primarily for the benefit of society and only secondarily for the sake of the individual.[3] Individual rights

[3] In substance this theory seems to be held by a majority of the non-Catholics of our time who write on justice and political philosphy. Not all state it in the same language nor restrict the concrete rights of the individual to the same extent, but all accept the principle that the individual has

are valid in so far as they do not hinder the social weal. "By himself," says Mackenzie, "a man has no right to anything whatever. He is a part of the social whole; and he has a right only to that which it is for the good of the whole that he should have."* In this view the social organism becomes an end in itself; and its good becomes the final goal and rule of human conduct. Now society is, indeed, something more than an abstraction, something more than the sum of its component individuals. And its function is not simply to guarantee equal liberty to all its members, in the sense of Immanuel Kant and Herbert Spencer. It is a real entity, a moral body, an organism, whose purpose is to safeguard the rights and promote to a reasonable degree the welfare of every one of its members. It is an organism only by analogy, however; not literally or physically. It is an organism inasmuch as its members are mutually dependent, and have diverse functions; inasmuch as it persists amid continuous changes in its membership, and will retain its identity after all its present members shall have perished; and inasmuch as its health is de-

no right which society may not in certain contingencies annul for its own welfare. The sources of the theory are chiefly: (1) writers who opposed the doctrines of the French Revolution, such as, Edmund Burke in *Reflections on the Revolution in France,* and Joseph de Maistre in *Essai sur le principe générateur des constitutions politiques;* (2) juristic writers who, in opposition to the Eighteenth century teaching on natural rights, endeavored to place all rights on a basis of historical facts and development, the most prominent of whom were F. C. de Savigny in *System des roemischen Rechts,* and F. C. Stahl in *Philosophie des Rechts;* (3) the Hegelian conception of the State as the highest manifestation of the Universal Reason and Will, the source of all rights, and the absolute end to which the individual must subordinate his particular aims and activity; see Hegel's *Grundlinien der Philosophie des Rechts,* and Lasson's *System der Rechts-philosophie;* (4) and finally, the doctrine of evolutionist utilitarianism, which emphasizes the importance of race progress at the expense of the individual.

Some indications of common points in the last two sources will be found in Chapter II of Ritchie's *Darwin and Hegel,* while recent statements of the general positivistic theory of rights are contained in *Natural Rights,* by the same author, in Hobson's *Social Problem,* and in Willoughby's *Social Justice.* Good presentations of the doctrine of natural rights defended in this chapter are made by Taparelli, *Droit naturel,* and Meyer, *Institutiones Juris Naturalis.* Finally Hegel's general concept of personality is successfully attacked in Andrew Seth's *Hegelianism and Personality,* especially on pp. 67-69 and in the concluding chapter.

6 Mackenzie, John S., *A Manual of Ethics,* p. 296.

termined by the health of its members, and in turn reacts upon the latter. When this much has been said the analogy between society and a biological organism is about exhausted. Society is not an organism in the sense that it is a finality. Its members do not exist and function for its welfare; they possess intrinsic worth and sacredness. Hence it is not an organism in which the individual's personality is merged and lost, like the branch in the tree, to use the illustration of Hegel. Society has, indeed, rights that are distinct from the rights of the individuals composing it, and its scope and aims reach beyond the welfare of the men and women that live in it at any given time. It has the right, for example, to make war, which the individual has not; and to prevent the ruthless destruction of forests, which prohibition may be contrary to the interests and wishes of its present members. Nevertheless, every right that society possesses, every act that it performs, every assertion that it makes of its legitimate power over individuals, is ultimately for the sake of individuals. It cannot otherwise be justified, for it is not an end in itself.

Let us concede for the moment that society exists for its own sake, is its own highest good. All its powers, prerogatives and activities will be naturally used as a means to this end. Whenever individuals, however innocent of wrong doing, impede society's progress they are to be relentlessly blotted out of existence. Let us suppose that as a result of this social selection the general level of the race is much higher than it would have been had regard been paid to the "superstition" of natural rights. Society has been treated as an end in itself, and the result is a more excellent society.

It must be evident that the individuals who have been removed to bring about this result could not reasonably have been expected to make the sacrifice willingly. They could not have been satisfied to efface themselves for the sake of society as distinct from its members, since this would be to die for an abstraction. Nor is it likely that any considerable number of them were willing to forego existence in order that the individuals who were left behind might enjoy a more complete existence in the improved society; for the real meaning of this situation is that the former have been used as mere instruments to the welfare

of the latter. It is not reasonable to expect men to devote themselves completely to any other end than their own highest good, and a superior society cannot be the highest good for those, who must be annihilated as a condition of its realization. They will very naturally prefer to run the risk of securing their own welfare in a less perfect social organization. There is no duty constraining one section of the community—not simply to risk their lives, as in a just war—but to submit to be killed by the social authority, in order that the surviving citizens may have the benefit of a more efficient State. The same statement may be made concerning any other of the individual's natural and essential rights. And if the individuals whose rights are treated as non-existent arc neither willing nor bound by moral obligation to make the sacrifice, the State has certainly no right, no *moral* power, to treat them as a means pure and simple to the welfare of those of its members who are permitted to survive. For, juggle as we will with the terms "social utility" and "social welfare," talk as obscurely as we may about regarding the individual from the viewpoint of society, the true meaning of the assertion that the rights of the individual are derived from and wholly subordinate to society, is that the lives of those who are less useful to society are essentially inferior to the lives of those who are more useful. And not until those who reject natural rights have succeeded in proving that some human lives are less sacred, have less intrinsic worth, stand on a lower grade of being than others, can they indulge the hope of winning over any considerable number of thinkers to the contention that the individual—even the poorest and lowliest person that breathes—has no rights that are indestructible by society.

The positivist theory of rights becomes more formidable, at least at first sight, when it is stated in terms of Hegelianism. The question is no longer one between the relative interests and inportance of the stronger, wiser and more virtuous citizens on the one hand, and of the weaker, less intelligent and more vicious on the other. Organized society, or the State, is in this system regarded as a good in itself, the highest manifestation of the Universal Reason, which is the only final reality. The all-important consideration, then, is to see that this highest embodi-

ment of the Universal Reason or World-Spirit called the State, shall reach the fullest possible development. Compared with this purpose, the welfare of individuals, who are merely particular and imperfect realizations of the one great reality, is insignificant. Their importance is analogous to that of the individual trees in a beautiful grove: the totality called the grove is the supreme end, to which the existence and condition of any particular tree is entirely subordinate. The rights of the individual are, therefore, derived from the State and intended for the greater glory of the State. David G. Ritchie, one of the ablest of the Hegelians who wrote in English, describes the rights and dignity of the human person thus: "Every human being may claim a right to be considered as such, because he *potentially* shares in the consciousness of the Universal Reason."[7] Each individual is, as it were, a receptacle of the Universal Reason, and derives therefrom all his worth and sacredness. When, consequently, the life or liberty of the individual begins to be an obstacle to the activity or unfolding of the Universal Reason, whenever the interests of the Universal Reason demand that any given individual should cease to embody it, he may lawfully be put to death, just as a diseased limb may be severed from the body, or a leaking pot be consigned to the scrap heap. If the Pantheistic basis of this deification of the State be accepted the theory of rights reared upon it is entirely logical. It may well be doubted, however, whether this blind, impersonal entity known as the Universal Reason seems to any considerable number of persons to have the moral authority requisite to oblige them to surrender their particular existence for Its aggrandizement. And of the few who may recognize the supreme rights of the Universal Reason, not all will acknowledge that Its loftiest- manifestation is to be found in the very fallible and very imperfect State in which they happen to live. An attempt to refute the metaphysical assumptions underlying the Hegelian theory of rights is, consequently, not much needed at this time.

One of the most frequent of the popular arguments against natural rights runs thus: All rights come into existence, become

[7] *Natural Rights,* pp. 96, 97.

necessary, and obtain adequate protection only in society; hence they are derived from society, exist for a social end, and should be exercised chiefly for the social welfare. This presentation is vitiated by an incorrect analysis and by unwarranted inferences. Not all of man's rights require a social organization, or even social contact of any kind, in order that they should become existent. All that is necessary is that two men be alive at the same time. They may be thousands of miles apart, may not even know of each other's existence, yet each will possess in full validity such natural rights as those of life, liberty and property, and will be morally restrained from hindering his fellow in the reasonable exercise of these rights. As to the second contention, it is true that rights are not needed until men come into some form of social intercourse; for a right means the moral power of restraining others from interfering with one's personal goods, and if there is no one near enough to interfere the moral restraint is unnecessary and impracticable; but this docs not prove that rights are created by society, any more than the fact that evening dress is worn only at certain "functions" proves that this form of apparel is created by or for the "functions." The clothes are intended for the individual wearers *on certain occasions.* In like manner, the individual's rights have for their primary purpose his own welfare *in society.* Finally, the fact that a man's rights can be sufficiently protected only in civil society is not a reason why they should be entirely subordinated to the ends of society, any more than the employer's dependence upon his employees puts him under obligation to turn over to them all his profits.

Academic opposition to the doctrine of natural rights is directed not so much against the moderate conception of them that has always prevailed in Catholic ethical teaching, as against the exaggerated and anti-social form in which they were proclaimed by the political philosophers of France, and even by some of those of England and America, in the latter half of the eighteenth century. The Catholic view, which is the one defended in this chapter, is, as already noted, that the individual's natural rights arc derived from and determined by his nature, that is to say, his essential constitution, relations and end. They are also said to proceed from the natural law, which is simply that portion of

God's eternal law that applies to actions of human beings. The natural law is so expressed in man's nature that its general precepts may readily be known, partly by intuition and partly by analyzing man's faculties, tendencies and destiny. In the view of the Revolutionary philosophers, however, "nature" and "natural" referred not to what is essential and permanent in man, but to that which is primitive and unconventional. Hence they laid more stress on the "state of nature" than on the "law of nature."[8] The natural law was merely that very simple and very primitive system of rules that would suffice for the state of nature, in which political restraints would be unknown, or at least reduced to a minimum. As Professor Ritchie has well said: "To the Thomist' the law of nature is an ideal *for* human law; to the Rousseauist it is an ideal to be reached by getting rid of human law altogether."[10] In the mind of the Revolutionist, therefore, to re-establish the law of nature meant to shake off the cumbersome and obstructive political regulations of the day, and get back to the simple state of nature, the semi-anarchical conditions of primitive times. This was, of course, a very inadequate interpretation of man's nature and of the natural law. No such "state of nature" ever existed or ever could exist compatibly with civilization. No valid conclusion regarding the individual's liberties, duties or rights could be deduced from his position and relations in this imaginary and irrational existence. Nevertheless, upon it were based and by it were measured men's natural rights in the Revolutionary system. As a consequence, the rights of the individual were exaggerated and the rights of society minimized. In practice this juristic liberalism has meant, and always will mean, that the State allows to the strong the legal right and power to oppress the weak. A good example of the evil is to be found in the results of the economic policy of *laissez-faire*. It is no wonder that there has been a reaction against this pernicious, anti-social and really *unnatural* theory of natural rights.

8Cf. Bonar, James, *Philosophy and Political Economy,* p. 186.
" And the Catholic philosopher generally.
10 *Natural Rights,* p. 43.

The doctrine of natural rights outlined in the foregoing pages holds, then, a middle ground between the Revolutionary and the positivistic theories of the origin and extent of the rights of the individual. It insists that the individual is endowed by nature, or rather, by God, with the rights that are requisite to a reasonable development of his personality, and that these rights are, within due limits, sacred against the power even of the State; but it insists that no individual's rights extend so far as to prevent the State from adjusting the conflicting claims of individuals and safeguarding the just welfare of all its citizens. In other words, man's natural rights must not be so widely interpreted that the strong, and the cunning, and the unscrupulous will be able, under the pretext of individual liberty, to exploit and overreach the weak, and simple, and honest majority. The formula that correctly describes the limits of individual rights is not the one enounced by Kant and Fichte, namely, that a person has a right to do everything that does not interfere with the equal liberty of others.[1] Interpreted in one way, this formula is utterly incapable of application, since the doing of an action by one man means the limitation to that degree of the liberty of all other men. Understood in a completely subjective sense, it would justify and legalize theft, adultery and murder; for I may claim the right to steal if I am willing that others should enjoy the same liberty. The true formula is, that the individual has a right to all things that are essential to the reasonable development of his personality, consistently with the rights of others and the complete observance of the moral law. Where this rule is enforced the rights of *all* individuals, and of society as well, are amply and reasonably protected. On the other hand, if the individual's rights are given a narrower interpretation, if on any plea of public welfare they are treated by the State as non-existent, there is an end to the dignity of personality and the sacredness of human life. Man becomes merely an instrument of the State's aggrandizement, instead of the final end of its solicitude and the justification of its existence.

[1] Kant, Immanuel, *Me.taphysik der Sitien,* Section C, and Fichte, Johann G., *Science of Rights,* p. 161, Kroeger's translation.

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Chapter III

THE ORIGIN OF THE STATE

The term *politics* originated from the Greek word *polis,* which meant a town, city, or State in ancient political terminology. A State, in a general sense, may be described as a group of people, occupying territory, independent, and having some form of government or rulership. Land or territory is essential to a State since without it a community would be subject to those who owned or controlled the land. If the land were unoccupied, possession could arise through the title of "first occupancy." It is impossible to conceive of a State as being suspended in mid-air or having an existence merely through some form of psychic union. Another essential element in every State, even in the most primitive, is independence. The idea of subjection is foreign to the concept of the State. If a group, however small or large, becomes subject to some power or authority outside themselves, they do not constitute a State. The necessity of government or rulership needs but little comment. Without the existence of some kind of authority, weak or strong, whether of a political or religious nature, and regardless of its origin, no social group could be organized and held together with sufficient continuity to constitute a State.

The most elementary form of group association and the one from which the State originally developed is the family. "The family is frequently referred to as the social cell, out of which the community develops. The metaphor accurately describes the relation of the family to the body politic."[1]

Aristotle wrote that the first human association is between male and female, the second between master and servant and that both of these arise from the natural wants of man, and the two together form the family.[2] The term *family* has a wide scope of

1 Haas, Francis J., *Man and Society,* p. 109.
2 *Politics,* Book I, Chap. I.

meanings and does not always refer to a little group of parents and children. Consanguinity is usually the identifying and unifying element in the family, but in ancient times other persons than those united by blood-ties were considered members, and as such, had definite rights and obligations. The old Roman type of family, for example, included not only the blood relatives, but also slaves and servants, comprising in all, a large social group. In primitive times, the family was usually a large group and often included "outlaws" who were rejected from their own consanguineous family for some violation of law. Others often became members of families through capture and purchase.

Blood relationship as a rule was recognized among primitive peoples as the ordinary basis of kinship. Descent was traced in two ways: patrilineal kinship, which was based solely on the relationship of males, so that only the direct descendants of the related males were considered members of the family; and matrilineal kinship, which was a family system based solely on direct descent from related females. The accuracy and extent of the various forms of family organization are problems for the ethnologist and there are many conflicting opinions concerning the institution. There is no disagreement among authorities, however, as to the fact that the family is the first social group, the first "human society."

Lewis H. Morgan lists five different types of family: (1) The Consanguine family, formed ordinarily on blood relationship; (2) the Punaluan family, discovered on the Hawaiian Islands and traces of it found in Europe, consisted in a group of brothers as husbands, and sisters as wives (the husbands and wives not being brothers and sisters in themselves); (3) the Syndyasmian family, which did not require exclusive co-habitation of husband and wife, but they could separate at will; (4) the Patriarchal family, as described in the Bible and constituting the Jewish tribes and nation; (5) the Monogamion family, the union of one man and one woman.[4]

[8] Msgr. Haas holds that Morgan fell into error in his analysis of the Punaluan family.

[4] *Ancient Society,* p. 384.

The family is naturally related to marriage, of which there are also several kinds among primitive peoples. At no time, however, was the relation between the sexes purely promiscuous and unregulated. "Sheer promiscuity is probably to be regarded rather as the extreme of looseness in the sexual relation than a positive institution supported by social sanctions."[8] *Monogamy,* the marriage of one man to one woman at a time, has been the dominant form of sex union in all ages. *Polygyny,* a form of marriage in which one man has several wives, had but limited existence among ancient peoples. *Polyandry* is the marriage of several men to one woman and is most rare among primitives. *Exogamy* is a system that requires a person to marry outside his family or particular group. *Endogamy* requires that marriage be within the family or particular group. The latter form is seldom found among primitives, whereas the Exogamous custom is widespread.[9]

Out of the family group, as the original society, and through marriage there developed the larger social group, the tribe, which in turn gave rise to nations. The term tribe, like family, is general in meaning. Among members of the tribe, there is naturally a bond of union but it may be of a loose and tenuous nature. According to Morgan, the best conception of a tribe is that of a group of people, laying claim to some territory, and having a distinct dialect of a language. The latter qualification, dialect of a language, is a common criterion for determining tribal organization. Of all the known tribes that have existed in historical times, those of Australia are the most crude and primitive, ranking below the Hindoos and the Negroids of Africa. The American Indian tribes were superior in culture to any others. "The tribes of simplest culture embrace the Tasmanians, the various Pygmy groups of the world, the Australians, the Tierra del Fuegians of southernmost South America, the Shoshoneans of Nevada, and various other tribes—all of them hunters, fishermen, and collectors of wild plants, ignorant of tillage, of stock breeding, and of metal work."[1]

[8] Hobhouse, Leonard T., *Morals in Evolution,* p. 138.
[9] Haas, *op. cit.,* pp. 110-112.
[1] Lowie, Robert EL, *The Origin of the Slate,* p. 3.

Within a tribe itself, numerous local divisions are found, such as the family, the clan, the household, the totem groups, hordes, phratries, and various "gangs," each one usually having a chief, sachem, or "leader" of some kind. According to Hobhouse, "the primary group may be a clan recognizing common causes or a totemic bond or it may be a local band. Moreover, these divisions of a tribe may co-exist and there may be more than one group which might deserve the name of primary. In such cases, we give primary to the group which exercises most of the functions of government. As we ascend still higher in the scale there are societies which we should no longer call tribal. The limits of the conception of tribes have never been clearly laid down. We take it that when government becomes so far centralized that local divisions have lost their independence and local chiefs have become replaced by heads of districts appointed by a ruling individual or council, a more regular form of government has arisen. We have called such governments national.§

When the family group, therefore, has grown and developed into a tribal society, we have the beginning of "political" organization. Size itself is of some importance and the multiplication of persons within a group would give rise to the necessity of some form of quasi-government. Customs and traditions, developed through centuries, become part of the daily life of the people, the warp and woof of their mode of existence. Authority is necessary for the observance and maintenance of customs. The line of demarkation, however, between the parental authority of the family and the political authority of the State, is not easily discernible. Offenders must be punished, and "sanctions" or "controls," imposed either by the tribe as a whole or, through custom, by individuals, gradually come into existence. Disputes and conflicts of various kinds would also naturally arise among the members of any tribal group, requiring the exercise of authority for peaceful settlement. External dangers, attacks from without, onslaughts from lawless bands and wild beasts, would necessitate governmental cohesion within. The tribe would require the exercise of authority, whether by a chief or a council, or

§ Hobhouse, L. T., *Institutions of the Simpler Peoples,* p. 49.

by the expressed or tacit consent of the members, to preserve the existence of the tribal unit. Hence, in a quite natural manner, the necessities of tribal life would give rise to the necessity of governmental organization. Political institutions came to exist both through natural development and through the process of human reasoning.

The theoretical approach, however, to the problem of the origin of the State offers many and varied speculations. John Stuart Mill describes two extreme and conflicting viewpoints on the problem and concludes that the proper theory is a combination of parts of both. "To some minds," he states, "political institutions are the result of deliberate choice. Man decides whether they shall exist or not. If he wishes to establish them, he determines the form and pattern best suited for human needs, others are persuaded to agree and support the institutions, and thus the state originates and develops." The opposite viewpoint is that government is a natural, unconscious growth, without the will or deliberate choice of the people, and results from their habits, instincts, and desires. "Their wills have had no part in the matter but that of meeting the necessities of the moment by the contrivances of the moment."[9]

The political theorists Hobbes, Locke, and Rousseau should be mentioned in passing as chief exponents of the school holding that the origin of the State is to be found solely in conscious and deliberate choice.

Hobbes believed, with fantastic presumption, that man's original existence was in a so-called "state of nature," which was lawless in the extreme and was characterized by continuous strife and warfare. He states: "Hereby it is manifest, that during the time men live without a common Power to keep them all in awe, they are in that condition which is called War, and such war, as is of every man, against every man. For war, consisted! not in battle only, or the act of fighting, but in a tract of time, wherein the Will to contend by battle is sufficiently known; and therefore, the notion of *Time* is to be considered in the nature of War; as in the nature of Weather.

[9] *Considerations on Representative Government,* Chap. I.

"Whatsoever, therefore, is consequent to a time of War, where every man is enemy to every other man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their invention shall furnish them with all.

"To this war of every man against every other man, there is also consequent: that nothing can be unjust. The notions of Right and Wrong, justice and injustice have there no place. Fraud and force are in war the two cardinal virtues. . . . Justice and Injustice are qualities that relate to men in Society; not in Solitude. . . . Thus much for the ill condition which man by mere nature is placed in. . . . He may come out of it through the Passions . . . for Peace and fear of Death and by Reason suggesting Articles of Peace which are called the laws of nature."[10]

Man in the "state of nature," as described by Hobbes, is merely an animal without rights or duties and devoid of all obligations toward himself or others. He is in a continuous condition of warfare and may use whatever means are at his command to attain his immediate end. No actions can be condemned, according to Hobbes, because man has no ethical ideas, no notion of what is just or unjust, no conception of right or wrong while living in this primitive condition. This theory is in direct contradiction to the natural law theory of man's existence which holds, as stated in a previous chapter, that man by the very fact of creation by God, has through his nature, rights and obligations.

Concerning the formation of political society, Locke wrote: "Whenever, therefore, any number of men are so limited into one society, as to quit every one his executive power of the law of nature, and to resign it to the public, then and there only is a *political,* or *civil society.* And this is done, whenever any number of men, in the state of nature enter into society to make one people, one body politic, under one supreme government; or else when any one joins himself to, incorporates with any government already made; for hereby he authorizes the society, or which is all one, the legislative thereof, to make laws for him, as the public good of the society shall require: to the execution whereof,

[10] Hobbes, Thomas, *Leviathan,* Chap. XIII.

his own assistance (as to his own decrees) is due, and this *puts men* out of the state of nature *into* that of a commonwealth, by setting up a judge on earth, with authority to determine all the controversies, and redress the injuries that may happen to any member of the commonwealth; which judge is the legislative, or magistrates appointed by it. And whenever there are any number of men, however associated, that have no such decisive power to appeal to, there they are still in the *state of nature.*— In the state of nature every man is his own judge.'"[11]

Locke did not agree with Hobbes that man in the state of nature was without rights or obligations and that he lived in a continuous state of warfare. He believed, rather, that man possessed fundamental rights, and that he was entitled to use his natural "executive power" to protect those rights. Crimes and offenses had to be punished in the state of nature, not through group action, but by individuals justly using their "executive power." When men agreed to transfer their individual executive power to "the public," through compact or convention, civil society was formed and individual possession of power ceased. Political authority or power, therefore, according to Locke, is the amalgamated power of individuals who formerly lived in the state of nature.

Jean Jacques Rousseau agrees substantially with Hobbes when he says: "Savage man left by nature solely to the direction of instinct, is little different- from other animals that spend most of their time in sleep.—To will and not to will, to desire and to fear, must be the first and almost the only operations of his soul, till new circumstances occasion new development of his faculties."[12]

In *The Social Contract,* Rousseau states: "The social order is a sacred right which is the basis of all other rights. Nevertheless, the right does not come from nature, and must, therefore, be founded on conventions—since no man has a natural authority over his fellowmen and force creates no right, we must conclude that conventions form the basis of all legitimate authority."[13]

Rousseau, contrary to the theory of Ix)cke, held that in the

u Locke, John, Treatise on *Civil Government,* Bk. H, Par. S9.
12 *The Origin of Inequality,* Everyman's Library, Vol. 660, p. 158.
13 *The Social Contract,* Everyman's Library, Vol. 660, p. 12.

state of nature, man had no rights since, he says, the social order is the basis of all rights. Legislative authority can arise only from conventions, hence, the "executive power," possessed by Locke's man in the state of nature, did not exist for Rousseau. If "conventions" are the source of all rights and of all authority, there can be no individual rights except those that political society may proclaim.

These "state of nature theories" are without any foundation in fact, are purely imaginative in character, and are theologically untenable. A complete refutation of them may be found in the account of man's creation as recorded in *Genesis.* Regardless of physical or bodily evolution or of social conditions, man has always known the natural law which gave him rights and imposed obligations.

Although there is no definite or dogmatic declaration as to the social evolution resulting in the organization of the State, there is almost universal agreement, as stated previously, that the family is the original social unit or source from which the State developed. Some believe in the theory of Aristotle that the State actually comes into existence with the formation of the *Village Community.*

"Every State is as we see," wrote Aristotle, "a sort of partnership, every partnership is formed with the view to some good thing, since all the actions of all mankind are done with the view to what they think to be good. It is, therefore, evident that while all partnerships aim at some good, the partnership that is the most supreme of all and included all others does so most of all, and aims at the most supreme of all goods, and it is the partnership entitled the State, the political association.—On the other hand; the primary partnership made up of several households for the satisfaction of not mere daily wants, is the village. The village according to the most natural account seems to be a colony from a household. The partnership finally composed of several villages is the city-state, it has at last attained the limit of virtual self-sufficiency, and thus, while it came into existence for the sake of life, it exists for the good life.—Again the object for which a thing exists, its end, is the chief good."[14]

[14] *Politics,* Book I, Chap. I.

Aristotle held that "self-sufficiency" is essential to the existence of the State, that property ownership in some degree is necessary, and that self-sufficiency can be attained only when "households" settle together in community or village life. Doctor Cronin, agreeing with Aristotle, says: "It is this condition of self-sufficiency that marks the end of the process whereby the family grows, develops itself economically, differentiates itself politically, and finally emerges as a complete State." [15]

Sir Henry Maine also believed that "no tradition concerning the origin of the Latin and Hellenic States seems more trustworthy than that which represents them as formed by the coalescence of two or more village-communities, and indeed, even in their most glorious forms, they appear to men throughout their early history to belong essentially to that type." [16]

The term "State" is often used in a very broad sense, meaning any kind of a group with a semblance of political organization. Father Rickaby writes: "There have been countless States in the world; thousands are extinct: each has had its own history. Authority has rung its changes in those countless States in endless varieties of ways. There are buried and extinct civilizations that once covered large portions of the earth. And civilization means the development of the State. There have been ebbs and flows of civilization. The State was less developed in England under Edward the Confessor than at Athens under Pericles fifteen centuries before. England was then an adolescent Nation: Athens, in the days of her glory, was a City State, ripe and mature." [17]

And Plato (427-347 B.C.) wrote that since cities first existed, thousands upon thousands of States had come into existence, and, "on a similar computation, just as many perished. And have they not in each case exhibited all kinds of constitutions over and over again? And have they not changed at one time from small to great, at another from great to small, and changed also from good to bad and from bad to good?" [18]

[15] Cronin, Michael J., *The Science of Ethics,* Vol. II, p. 164.
[16] *Early History of Institutions,* p. 84.
[17] Rickaby, Joseph, S.J., *Political and Moral Essays,* pp. 14-15.
[18] *Laws,* Book III, p. 65, ed. R. G. Bury.

Rickaby holds that man is a member of the State in most primitive circumstances and that we find the State in existence under nomadic conditions. "Man is a nomad before he is an agriculturalist," he says, "and even the nomad is already a member of the State.—There was a State before there were towns, before even there were homesteads. These nomads had a polity, but not a settlement, that was to come. They were governed not by human law, for human law is the outcome of mature civilization, but by the custom of the horde, which left the individual anything but free to do as he pleased. A nomad horde is not an ideal political community, nor a Maori a model man, nor a sponge the best type of animal. Still, the perfection of the higher type is no reason for refusing the generic name to the imperfect lower form, especially where that lower form holds in deposit the potency of the higher development." [19]

History and anthropology furnish evidence of the existence of States, great and small, among the earliest peoples. In later times, among the Indian tribes of the Americas, for example, we have the Yurok and Maidu of the California region, numbering from around 2,000 to 9,000 population, and living under a simple form of government.[20] These tribes lived separately and the political organization in the villages, in some instances, was poorly developed but they were, at least, on the fringe of statehood since they had established villages, territory, tribal hunting grounds, and a semblance of rulership. Concerning the Yurok and the Maidu, Professor Lowic says: "Though the people of one village were culturally indistinguishable from the next, though their dialects might be mutually intelligible, or even identical, there was no cohesion of neighboring settlements, trespassers were kept out by an elaborate sentry service and were sometimes summarily dispatched. The single settlement of possibly a hundred souls, predominantly constituted of blood kin, stands out as the *only* political unit. The suspicion directed towards all strangers inevitably discouraged travel and precluded the evolution of major groups."[21]

[19] *Ibid.*, p. 21.
[20] Kroeber, Alfred L., *Handbook of the Indians of California,* pp. 17, 394.
[21] *The Origin of the State,* p. 8.

Although one might hesitate to classify a small Yurok village-community as a State because of the absence of "formal sovereignty," nevertheless, each village had a definite code of laws, tribal in origin, administered by the individual as occasion demanded. Kroebcr states that among the Yurok "all rights, claims, possessions, and privileges are individual and personal, and all wrongs are against individuals. There is no offense against the community, no duty owing to it, no right or power of any sort inhering in it.—There is no punishment, because a political State or unit that might punish does not exist."[22]

Gn the other hand, there were the highly developed States of the great Indian "Empires," or confederacies. Outstanding were the confederacies of the Iroquois consisting of five independent tribes, the Creek of six tribes, the Ottawa of three tribes, the Dakota League of "seven council chiefs," the Maqui of seven Pueblos, and the Aztec of three tribes in the valley of Mexico.[23]

These confederacies were the fruit of years of planning and exemplified notable political achievement. Concerning the Iroquois, Doctor MacLeod writes: "The Iroquois of the New York Confederation comprised five tribes who were united in a well-knit confederacy, in the central council of which each tribe had one vote, confederate action requiring a unanimous vote. To this central council each tribe sent a specified number of councillors, but each tribal representation debated among themselves until they reached a unanimous tribal decision, whereupon one of their number appeared as their speaker and representative. Each tribe could make war and peace on its own account so far as this did not interfere with the confederacy plans—which plans, however, required the assent of every tribe."[24]

In South America the Incas likewise attained a high degree of political development. "Here, even more than in Mexico," Lowie states, "the secret of expansion lay in military conquest, facilitated and strengthened by an elaborate governmental machinery. The conquered tribes, grouped in fours, were united under a governor of Inca lineage, who levied troops, collected tribute,

[22] *Op. cit.,* p. 20.
[23] Morgan, *Ancient Society,* Chap. VI.
[24] MacLeod, William C., *The Origin of the State,* p. 25.

supervised obligatory labors, and administered justice. He was expected to avert anti-Inca agitation and reported to the Inca ruler at an annual festival. All the subject tribes were grouped into four provinces under ministers who resided not in their provinces but in Cuzco, the national capital. In order to maintain their dominion, the Incas maintained garrisons recruited from tribes alien to those among whom they were stationed. For economic or political reasons, members of the various tribes might be deported to remote regions. The entire population was split up into age classes and obliged to work under the direction of Inca overseers.''[28]

In Africa, the emergence of the State from tribal life is similar to that of the Americas, and innumerable examples might be cited. The pattern is the same, running from the small political units of the Zantu to such great monarchies as Uganda, embracing several millions of people under one ruler.''

While kinship was the basis of the earliest social groups, and prepared the way for the development of the primitive States, private land-ownership was also an important factor and often co-existed with kinship in the progress towards statehood. One system did not merely succeed the other, chronologically. The territorial factor was always important in the process. In later times, however, landownership became the sole factor in determining the organization of the State, as is evidenced by the whole feudal system in Europe. The feudal States were founded entirely on the principle of landownership. Naturally, the transition from kinship to landownership was a slow, gradual, and almost imperceptible movement.''

On the question of landownership, Sir Henry Maine states: ''Here, as elsewhere, the world is full of 'survivals,' and the view of society as held together by kinship still survives when it is beginning to be held together by land. Similarly, the feudal con-

[25] *The Origin of the Stale,* p. 14.

[26] Lowie, Robert IL, *Primitive Society,* p. 373.

[27] Maine, Sir Henry, *Early History of Institutions,* pp. 85-87. It is worthy of note that even in modern times, among the great nations of the world, the two principles for determining citizenship are *jus sanguinis* (blood) and *jus soli* (territory).

ception of social relations still exercises powerful influence when land has become a merchantable commodity."[28]

In discussing the Brehon Law, kinship, and landownership in ancient Ireland among the Irish Tribes, Maine says: "It cannot be doubted, I think, that the primitive notion of kinship, as the cement binding communities together, survived longer among the Celts of Ireland and the Scottish Highlands, than in any Western society, and that it is stamped on the Brehon Law even more clearly than it is upon the actual landlaw of India. It is perfectly true that the form of private ownership in land which grew out of the appropriation of portions of the tribal domain to individual households of tribesmen is plainly recognized by the Brehon lawyers; yet the rights of private owners are limited by the controlling rights of a brotherhood of kinsmen, and the control is in some respects even more stringent than that exercised over separate property in an Indian village-community."[29]

As to how the system of private landownership developed in ancient Ireland, Maine states that at the head of the tribe was a chieftain, known in Irish records as a King. Ireland had many kings. A part of the tribal lands was allotted to the chieftain, by virtue of his office, and passed from chief to chief, according to special rules of succession. Other portions of land were occupied, temporarily, by minor chiefs and the tribesmen often pastured their cattle on certain unoccupied sections of the tribe-lands, thus gradually getting control of the land. There was also the "waste" land of the tribe, unoccupied, upon which the chief settled "stranger-tenants" and outlaws. The temporary occupation of the lands gradually became permanent, culminating in private ownership and forming the basis of the State.

To summarize: the origin of the State must be traced back to the family as the original social group from which in turn tribal and village life developed, through kinship and landownership, and resulting gradually in the formation of political society.

[28] *Ibid.*, p. 88.
[29] *Ibid.*, p. 89.

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Chapter IV

THE NATURE OF SOVEREIGNTY

The problem of sovereignty presents many difficulties and has given rise to various and conflicting opinions. There are many questions involving the nature of sovereignty, the extent of sovereignty, the divisibility of sovereignty, sovereignty *de iure* and sovereignty *de facto*. Is sovereignty absolute in the sense that the State possesses all power, both political and moral? Is it a contradiction in terms to speak of "limited sovereignty"? Can sovereignty be divided among sections of the State or between subjects and ruler? These arc questions that have provoked great controversies, over the centuries, and in answer to which numerous theories of the State have been developed. Our principal problem here is to consider the nature of sovereignty. The location of sovereignty will be taken up later.

The early Greek and Roman political philosophers did not regard sovereignty as an absolute, unlimited power over all persons and things within the State. They considered sovereignty as supreme political power but with a definite limitation. Aristotle wrote that "the principle that the multitude ought to be supreme rather than a few best is capable of a satisfactory explanation, and though not free from difficulty, it seems to contain an element of truth."[1] In explaining political authority he uses the word "supreme." However, the governance of the gods, both in the Roman and Greek States, over the lives of the people was a definite limitation on the absolute power of the State, although not considered a limitation on political sovereignty. It is true that the ancient pagan State had for its province the whole field of human action, religious, moral, domestic, economic and social.

[1] *Politics,* Book III, Chap. II.

The State could legitimately intervene and interfere in every department of life; and to it every person, and every interest was completely subordinate. According to the pagan theory the province of the State comprised not merely man's temporal interests, but every detail of his existence; and the welfare of the individual, or any particular group of individuals, was conceived to have no value except in so far as it served the interest and aggrandizement of the State. Nevertheless, the supreme political power in the pagan State recognized the existence of the gods and their authority over the State. The State was not free to disregard the "divine" dictates and laws. St. Augustine in his *Civitate Dei* refutes, at great length, the existence of the pagan deities and the claim of the pagan philosophers that their States profited from the protection and direction of the gods. Francis W. Coker writes: "Thus in the classical Greek political theory the state was not sovereign in the sense of being above law. The authority of customary, or unwritten, laws, embodying the dictates of gods or of a universal reason, ranked higher than that of even the highest governors of state."[2]

The chief exponent of the so-called modern theory of sovereignty was the French political philosopher Jean Bodin (1520–1596),[3] frequently referred to as "the founder of the modern doctrine of sovereignty." The words "Bodin" and "sovereignty" are synonymous in the history of political thought. With the rise of national States, the Reformation, the conflict between Church and State, and the internal disruption in France due to warring

2 *Encyclopedia oj Social Science,* article on "Sovereignty."

3 Though Rodin never abandoned the Catholic religion, and was buried in the Franciscan Church at Laon, his writings often betray an un-Catholic temper, when they are not more or less openly hostile to the existing ecclesiastical order. In religion he inclines to an abstract theism. In keeping with the Gallican legists of France he champions the absolute supremacy of the State, though he bases it on the Divine will and the natural law; his ideal prince is not an impious and unjust ruler of the Machiavelli type. All the works of Bodin were placed on the Index in 1628; the edition of 1900 (and 1939) continues the prohibition of his "Universae Naturae Theatrum." Catholic theologians, like Possevin, have noted and refuted in the "République" certain errors and anti-Christian subtleties. "To judge by his writings," says Toussaint (Diet, de theo. cath., II, 918), "he was a bizarre, inconstant, and superficial man." *Catholic Encyclopedia,* "Bodin," article by Georges Goyau.

factions, the question of sovereignty took on new significance in Bodin's time. In his work, "The Republic,"[4] he presented, according to some political philosophers, the first systematic analysis of the whole subject of sovereignty.

There is disagreement regarding Bodin's conception of sovereignty, in that he was not clear and consistent in his explanation of the subject. The common opinion, however, is that he favored the conception that sovereignty is absolute and unlimited and that the State is supreme in all matters affecting the individual. He preceded Hobbes, Bentham and Austin in his exposition of the absolute nature of sovereignty and, undoubtedly, had some influence on them. Bodin defined sovereignty as "the absolute and perpetual power of a republic," thus establishing a defense for absolute monarchy. The chief function of the sovereign, he says, is to make laws and the sovereign himself is bound by no human law. "Legibus Solutus" is the much controverted phrase which he used in the Latin edition of "The Republic," meaning the sovereign is above all law. In recent years there has been a considerable revival of interest in Bodin's theory.

A few centuries after Bodin the German philosopher F. W. Hegel (1770-1831) developed at greater length the theory of State omnipotence? In his view, as explained in a previous chapter, the State is the highest expression, manifestation, evolution of the Universal Reason or World Spirit. Since perfection of life consists in the continuous expansion of the Universal Reason, and since the Universal Reason obtains its highest development in the State, all persons and institutions should serve and magnify the State. The individual exists for the State, and bears the same relation to the State as the branch does to the tree. Hence the State is the final and supreme end of human action, is an end in itself.

The number of political writers who have fully adopted the Hegelian theory of the State is negligible. Its philosophical basis is a pantheistic view of the universe which has not found wide acceptance. Nevertheless the central idea, that the individual

[4] *Six Livres de la République* (1576), Chap. VIII.

[5] *Philosophie des Rechts,* English translation by S. W. Dyde, Hegel's *Philosophy of Right.*

exists for the State, and not the State for the individual, has been approved in some degree by a large number of political writers and by not a few political rulers. While Professor James W. Garner declares that "modern political thought and practice reject the view that the State is an end rather than a means," [6] the Rev. Theodore Meyer, S.J., asserts that this view is held "not merely by one or two but probably by a majority of the teachers of public law."[7] According to Meyer, the prevailing form of the theory is this: The end of the State is the indefinite furtherance of human culture or civilization. While this end may, indeed, be identified with individual welfare, it is formulated by the advocates of the theory in such general and abstract terms that little consideration is given to the individual's concrete interests. The latter are always remote, always lost in some future condition of humanity at large. Existing individuals become secondary and subordinate to the general interests of the future. Since the evolution of humanity and the indefinite progress of civilization necessarily tend to be identified with the welfare of the State, the latter comes to be regarded as the supreme end.

John Austin (1790-1859). the English jurist, was also a follower of Bodin in defending the theory of unlimited State authority. "Austinianism" and "State absolutism" are interchangeable terms in politics. Austin exceeded even Hobbes in his belief in the absolute and unrestricted power of the State. In order that any given society may be formed into a political society, Austin held "the generality or bulk of its members must be in a habit of obedience to a certain and common superior; whilst that certain person, or certain body of persons, must not be habitually obedient to a certain person or body." [8] Austin further states: "Now it follows from the essential difference of a positive law and from the nature of sovereignty and independent political society, that the power of a monarch properly so called, or the power of a sovereign number in its collegiate and sovereign capacity, is incapable of *legal* limitation. A monarch or a sovereign number bound by a legal duty were subject to a higher

[6] *Introduction to Political Science,* p. 312.
[7] *Institutione» Juris Naturalis,* II, 276, note.
[8] *Lectures on Jurisprudence* (1832), p. 233, Lecture VI.

or superior sovereign; that is to say, a monarch or a sovereign number bound by a legal duty were sovereign and not sovereign. Supreme power limited by positive law is a flat contradiction in terms." [9]

Habitual obedience of the "bulk" of political society, regardless of how it is obtained or coerced, to a superior who is without obedience or responsibility to any authority, is the true mark of sovereignty, according to Austin. Two postulates are implied in this theory: First, the State recognizes no other society as its superior or equal; second, the State has the physical power to coerce all individuals and societies into obedience to its mandates. The first of these contradicts the Catholic doctrine that, in its own sphere, the Church is an independent, perfect and supreme social organization, and that, in society as a whole, it is coordinate with, not subordinate to, the State. This is a question of moral rights, of the requirements of reason; it is not a question of physical power. Whether the State does or does not recognize the moral right and rational authority of the Church in the field of the spirit, whether the State does or does not hinder by force the Church's exercise of this right—the right itself exists and endures. The second postulate of the Austinian theory involves a question of positive fact. Is the State always sufficiently strong to coerce at will the acts of all individuals and associations within its territory and to command the "habitual" obedience of "the bulk"? History supports a large list of examples in the negative. However, it is correct to say that the State usually has sufficient physical power to overcome any opposing force within its borders.

Commenting on Austin's theory, Professor Charles M. McIlwain states: "Nothing could show more plainly the nakedness of the might which lies at the center of Austin's theory than his well-known reformulation of Hobbes's Sovereignty in *The Province of Jurisprudence Determined.* He tells us there that when in any society, a determinate person (or persons) *"habitually"* receives the obedience of "the bulk" of the members of the society, such person (or persons) must be considered to be the

[9] *Ibid.*

sovereign in that society. There is no question here of law or right. It is the mere physical fact of mastery, the actual existence and continuance of obedience whether induced by consent, fear or force, which clothes those who obtain it, no matter how or why they obtain it, with the supreme authority of the State. And furthermore, the actual submission of "the bulk" of the people is, in this theory, complete justification for a supremacy with unlimited power over all, even over those who have never consented to it. Minorities look in vain for protection under such a theory, and there is no right of an individual too sacred to be over-ridden with the assent of 'the bulk' of the people.

"If anyone should doubt the practical effects of this truly slavish theory of the State, a very slight review of certain periods of English and American history would be enough to undeceive him. It was largely by an appeal to it that Lord Mansfield defended and obtained the passage, in 1776, of the Declaratory Act which affirmed that Englishmen in America were completely subject to the power of the legislative body in which they had no representative whatever, a perfect example of Austinianism in operation; it was its influence which enabled conservatives like Ix>rd Eldon to justify and secure the retention, even in the nineteenth century and by an unreformed parliament, of such notorious abuses as Catholic disabilities and the Test and Corporation acts and to enact class legislation of the type of the Combination acts." [10]

In opposition to the theory of State absolutism and also to the accepted theory of sovereignty, there was developed in more recent times the doctrine of the pluralistic State. According to the exponents of this theory, sovereignty should be divided among the groups that go to make up society, such as the cultural, religious, business and labor groups. The purely "political group," say the pluralista, ought not to possess authority to subordinate all other groups. The pluralist doctrine, however, would lead to social chaos because innumerable, separate and distinct groups would arise within the State, each claiming autonomy and in-

[10] *Political Science Quarterly,* "A Fragment of Sovereignty," 1933, Vol. 48, pp. 94-106.

dividual sovereignty. Nevertheless, the pluralista have made a valuable contribution in directing attention to the natural rights of the individual, the moral rights of various social groups, and to the necessity of limitation on State authority."

Sovereignty is the constituent clement of the State and has its origin with the State in the natural law. St. Paul says, "All authority is from God." And Pope Leo XIII states: "But as no society can hold together unless some one be over all, directing all to strive earnestly for the common good, every civilized community must have a ruling authority, and this authority, no less than society itself, has its source in nature, and has, consequently, God for its author. Hence it follows that all public power must proceed from God." [12] Just as the authority in the family comes from the natural law, because it is necessary for the existence of the family and the family, in turn, is indispensable for man's welfare, so too, authority is necessary for the existence of the State and is supplied by God through the natural law. Sovereignty cannot be merely the supreme physical power of the State, otherwise the State would have no juridical foundation. If physical power were the sole test and criterion of sovereignty, the State would be justified in performing any act or function it might choose, whether affecting internal relationships with citizens or external relationships with other States. No State, under this assumption, could have the right to exist unless it possessed sufficient military and naval power to overwhelm all opposition.

While sovereignty is usually explained in terms of "power," its proper conception is "authority," No power can be exercised ethically without legitimate authority. Sovereignty, understood in the proper sense, is the legal authority that gives existence to the State. Dr. Michael Cronin says: "By sovereignty is meant the legal supremacy of the State.—Sovereignty is above all things, a *legal* conception. It means that in law, (the natural law, of course), the State has a *right* to certain things. Physically a State might be prevented from using its powers and rights

[11] Cf. "The Pluralistic State," in the *"American Political Science Review."* Vol. 14, p. 398, sq.

[12] Encyclical, *The Christian Constitution of States.*

in particular cases, but the legal or juridical rights conveyed by the term 'sovereignty' will remain as long as the State remains." [18]

The natural law, as we have seen, is basically the moral law and consequently the State is moral in character. The *legal* element which is said to be essential to sovereignty simply means that sovereignty is primarily ethical in its nature, since all authority or law is essentially ethical. Sovereignty is supreme legal authority, in the sense that it gives to the State the supreme right to exist, to perform definite political functions, and to provide the necessary means for its continued existence. The power of the State in determining the best methods of administering and executing laws is supreme and without limitation. The power of the State in determining and organizing the best system of judicial procedure to promote justice is supreme. The power of the State to enact legislation for the common welfare of its citizens is supreme, provided the natural rights of the people arc not violated.

To say that sovereignty is the supreme political power in the State does not give an adequate idea of its true meaning. The conception of sovereignty, the supreme politico-physical power of the State as *legally* unlimited, easily passes into the assumption that it is unlimited *morally*. Sovereignty may be defined as the supreme legal, political and physical power of the State to do everything that the State has a *moral right* to do. When the moral qualification is omitted from the definition it readily comes to be ignored in thought and practice. Legal omnipotence insensibly passes into complete and unqualified totalitarianism. The definition of sovereignty merely in terms of physical and legal power has no practical value, imparts little or no practical information; for the idea of the State necessarily and immediately implies this measure of power over its territory and people. What is required, is a statement of the *reasonable* power possessed by the State and the average man naturally assumes that any formal authoritative definition is intended to be of this character, is designed to tell him not only what the State has

[18] *The Science of Ethics,* Vol. II, p. 545.

the physical power to do, but what it may do in harmony wit i the moral law and principles of reason.

God, through the natural law, has given authority to the individual, within certain limits, over his own life that he may attain his proper end. He has given authority to the family, necessary for its existence. He has given authority to the State, essential for its existence. Each of these is supreme in its own sphere of life, in the exercise of its proper authority, and there can be no real or logical conflict of rights or of authority among the individual, the family, and the State, any more than there can be a contradiction in the mind of God. The natural law is designed by God for the harmonious adjustment of all phases of man's life.

Dr. Cronin again states: "Sovereignty, therefore, implies a right of control over all affairs of State, external and internal, but as we have remarked already, *only in so far as the good of the State* requires. For the most part, of course, the rulers of States are themselves the best judges of the needs and interests of the community; but we insist on our present limiting condition because it has been contended by certain writers that the sovereignty of the State extends to every kind of action, whether good or bad, that it cannot be limited by moral consideration of any kind, that, in fact, anything that the State desires, it has a right to do.—The civil powers have a right to act for the good of community. They have no right to do what is clearly wrong, immoral or unjust, and they have no right to force on people courses of action which are either unjust or *manifestly* absurd or unprofitable. The natural law is above the civil law, is deeper and more fundamental; it is itself the ground of the civil law and gives to the civil powers all their authority. The civil law therefore, cannot act in contravention of the natural law and laws enacted in contravention of nature are invalid from thoir very foundation."[14]

Although sovereignty is by its ven- nature supreme authority within certain limits, it is not in itself indivisible This authority is invested in the ruler, or rulers of the State depend'

[14] *Op. al.,* Vol. II, pp. 5-49-551.

upon the particular form of government that is established, and the agreement, tacit or explicit, as to how the sovereign power shall be exercised. Under an absolute monarchy, sovereignty will be vested in the ruling monarch. In a democracy it may be divided among several groups. In the United States, for example, under our present Constitution, sovereignty is divided among the President, the Congress, the states and the people. The President has full and supreme power to execute all federal laws; Congress has sole and supreme power to enact all federal legislation. The states, in turn, possess certain residual political powers, not granted to the federal government, such as the different police powers. Finally, the people themselves partake of sovereignty in that they may, through delegates elected to conventions in the states, change the Constitution when three-fourths of such state conventions approve. The divisibility of sovereignty, however, in no way militates against the unity of supreme political power.

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Chapter V

IMPLICATIONS OF SOVEREIGNTY

IV.—The Right to Independence (External Sovereignty) [1]

41. The common good, which is the purpose of all social life, supposes the existence of an authority whose task it is to direct to this collective end all the particular activities of the associates. The right of determining in the last resort the rules to which all must submit their action, and of issuing orders which cannot be disobeyed, belongs to the State and constitutes Sovereignty.

The notion of sovereignty implies that the authority possessing it has a double right: that of ruling effectively the activity of the members of the social body and of rejecting any interference of other States in the exercise of its mission.

It is customary to speak of internal and external sovereignty. Whilst taking into account the double aspect, positive and negative, of these complementary rights, it is more exact to speak of the sovereignty which the State exercises over its own territory and subjects, and of its independence in regard to other States. We shall now deal with the right to independence, the right of sovereignty being treated in section V.

42. For various reasons some States find themselves habitually incapable of directing the activity of their subjects to the common good, and are obliged to demand or accept the advice and help of a foreign power in order to fulfil their mission. They then cease to be sovereign and independent States and become protected States. When a government is incapable of securing the well-being of its subjects, a protectorate is quite a legitimate institution, so long as it is sincerely exercised for the good of the peoples thus placed under the tutelage of another nation.

[1] Reprinted with the permission of the Catholic Social Guild from *A Code of International Ethics.*

43. But there is nothing absolute in the sovereignty and independence of States. Their extent and limits are to be found first of all in the very need of the common good which every State must secure for its members, and secondly in respect for the equal right of other States, and in the obligation incurred by all the members of international society of promoting the general and higher good of the human race.

44. These limits have often been overstepped, and the history of international relations is little else but a tissue of interventions —in the ordinary sense of the word—which States have assumed the right to practise towards one another, in their internal affairs as well as in their respective foreign policies; diplomatic or armed interventions, ojien or disguised, individual or collective.

One cannot pass a uniform judgment on all these interventions, and they must be considered on their merits. Often they have been resorted to by States which were ambitious and anxious to dominate; sometimes they appear to be a natural reaction against the abuse by a State of its right of sovereignty.

Intervention does not necessarily mean war. It can take all sorts of forms; diplomatic remonstrances, economic reprisals, embargo, peaceful blockade, military or naval demonstrations. War is the most extreme form of intervention, and can only be resorted to when other methods have failed, and for a very grave motive?

In the absence of an international organization which is juridically organized and capable of keeping order among States, intervention will be justified in the four following cases:

(a) When a State has recourse to it to defend its legitimate interests which have been unjustly attacked or threatened by the internal or external policy of another Power. In this case intervention is only the legitimate exercise of the right of self-preservation.

(b) When its object is to assist a third Power victim of an unjust aggression.

(c) When its purpose is to secure the respect of certain rules

2 See in Chapter XX the severe conditions which govern recourse to war.

of the Law of Nations, the observance of which is of vital interest to all the members of international society.

(d) When it is resorted to for the defence of the higher rights and interests of humanity against barbarity.

45. In all these cases intervention is merely the exercise of an unquestionable right. In many cases it may even become a strict duty of international justice or charity.

It will be a duty of strict justice when a State has undertaken by treaty to defend a friendly or allied Power in its just demands. In all other circumstances it is a duty of charity, since the existence of a natural society of States obliges them to mutual assistance of one another. But this duty of charity does not bind States if its fulfilment renders them liable to heavy sacrifices or grave dangers. The State exists to protect the rights and interests of its members, and it would be betraying its essential mission if it exposed itself to sacrifices or dangers, the result of which would be to imperil the life or property of the citizens under its care. As the consequences of an armed intervention are usually difficult to foretell, States will often discover in this uncertainty a legitimate excuse for abstention.

It is indeed preferable, for the sake of international order and peace, that these interventions should be as rare as possible. For in the absence of an international society qualified to determine Right, there is a grave danger that States should make use of the right of intervention to further their own personal ends.

46. The principle of pon-interveption has sometimes been opposed to the right of intervention as defined above. When expressed as an absolute and unrestricted rule of conduct, this principle has been formally condemned by Pope Pius IX *(Syllabus,* Proposition 62).

But this condemnation does not forbid a State to oppose foreign intervention in its own affairs or those of others, if it considers that it is injurious to its legitimate interests.

Likewise, concern for the superior good of the international society can rightly suggest a non-intervention agreement between the other States, which may be too much divided among themselves in order to judge the conflict properly, so that the internal troubles of a nation may not become the cause of a general war.

47. Except in the case when intervention becomes a positive duty, a State can, in the present unorganized condition of international society, deliberately refrain from taking part in a conflict between two or more nations and proclaim its neutrality. It must then conscientiously fulfil all the duties which this attitude implies, and avoid helping in any way the cause of one or other of the belligerents. We shall deal later on in detail with the rights and duties of neutrality. (179.)

V.—The Right of Sovereignty (Internal Sovereignty)

48. The sovereign power of the State is exercised not only over its subjects, whose activities it co-ordinates for the common good, but also over the territory which it occupies, and which it must dispose to the same ends. Thus sovereignty has two aspects: territorial and personal.

(i) *Territorial Sovereignty*

49. Territorial sovereignty gives the State the right to use with full freedom its own territory, according to the needs of the common good of the society which it governs. This right, which can be opposed to any interference of another State, is distinct from the right of property which individuals exercise quite legitimately over various parts of this territory. Nor must it be confused with the more exclusive rights which the State possesses over its public and private domain.

By reason of this sovereignty, the State alone has the power to make law within its frontiers, to maintain order and to provide as well as possible for the interests committed to its care.

As in all other matters, these powers are not absolute; they are limited by the duty of respecting the rights of other nations and of co-operating with them for the common good of humanity.

50. The territorial sovereignty of the State is exercised over a triple domain:

(a) The land.

Naval roads, ports and rivers are included in the national territory.

The needs of international commerce, in the maintenance of which all nations are equally interested, have naturally brought

about some modifications to the right which each State possesses over its naval roads and ports, both of them indispensable to sea traffic. For similar reasons, the rivers which flow through the territory of several States are considered as open to all nations.

(b) The sea.

Modern international law looks upon the sea as a *res communis,* which cannot be appropriated and is left to the free use of all. But there is an important exception to this principle. Each State possesses certain police, navigational and fishing rights to a distance from its coast generally fixed at three miles. But this is rather in the nature of a right of servitude, being only allowed to the extent needed for the safeguarding of legitimate interests, and no State can invoke it to prevent the harmless passage of foreign ships.

(c) The air.

It is obvious that one cannot deny to the State its right of police and supervision in the air above its domain. But as in the case of territorial seas, an attempt has been made to harmonize the undoubted rights of the States with the reasonable demands of air traffic. This adjustment can only be effectively brought about by international regulation.

51. The territorial sovereignty of a State naturally implies the inviolability and integrity of its soil and frontiers. But in fact, history teaches us that this integrity is by no means absolute, and that in the course of centuries the political map of the various continents has undergone profound changes. These territorial readjustments have generally taken place in one of the three following ways: occupation, transfer or conquest.

By occupation territories come under the dominion of a State, which were previously under no sovereignty, or were controlled by the nominal sovereignty of a Power incapable of fulfilling its mission. As there are practically no unoccupied lands nowadays, this title can hardly be invoked.

Transfer is an essentially peaceful means of acquiring territory; it may take place by gift, exchange, sale, legacy. It was much used in former times when princes, who often mistook sovereignty for property, determined the fate of their own territories at their convenience, but it is hardly compatible with the

modern view which considers the soil as the common heritage of the nation. In recent times it has been resorted to, under the form of lease, for the sake of giving some appearance of lawfulness to annexations made to the detriment of States unable to defend themselves against great Powers in need of expansion.

Annexation, or conquest, is the only practical means of acquiring territory left to-day. We shall see later on to what extent it can be reconciled with the demands of international justice. (See No. 192.)

52. In latter years, however, the idea of voluntary transfer has come to the forefront in international discussions. Certain States, pleading the poverty and over-population of their soil, have put forward the idea of a revision of their territorial status and a re-distribution of colonies.

In itself their argument is not without weight. A nation whose over-numerous population can hardly live on poor or limited territories and cannot emigrate to other countries on account of racial differences can rightly plead its imprescriptible right to life. International charity makes it a duty for other States to provide it with appropriate means of expansion.

But this can happen only very rarely, since there are other remedies to over-population which are less extreme and run less risk of endangering the peace of the world.

Free access to foreign markets will often enable a State to make up for the lack of raw materials necessary for its industry.

Emigration will allow a State to send abroad the excess population it cannot provide for, so long as it is not countered by exaggerated restrictive policies. Doubtless this will often mean the loss of nationality by emigrants. But a State must not consider itself injured by this very natural consequence of emigration. Its former subjects will not forget, in their new country, the bonds which unite them to their fatherland, and the latter will find ample compensation for the sacrifice it has made in the expansion of its economic and cultural influence.

One must not lose sight of the fact that the tropical countries which the advocates of a colonial redistribution chiefly have in mind, offer few opportunities for the settlement of white people,

or even for their economic expansion. Furthermore the interests of the inferior races submitted to colonization must not be overlooked, and it is only too obvious that a change of sovereignty is not always beneficial to them.

(ii) *Personal Sovereignty*

53. Personal sovereignty gives the State the right of ruling over the members of the social body, of defining their rights and duties and of directing their activity towards the common good of the collectivity. In the exercise of this sovereignty over its subjects, the State is answerable to none of the other States taken individually; the Society of States alone could have the power to intervene for the protection of minorities or the rights of the human personality, in cases of oppression.

The State still exercises its sovereignty over its subjects when the latter are travelling, and reside or have a domicile abroad, with all due respect to the rights of territorial sovereignty which the foreign State possesses over its soil.

Private international law and the agreements connected with it are very useful for avoiding conflicts in these difficult matters and for harmonizing the action of rival sovereignties for the greater good of all.

(iii) *Emigration and Immigration*

54. The close problem of emigration and immigration is closely connected with both territorial and personal sovereignty.

Man cannot live outside the bounds of all society, but he is not chained to the land of his birth and to his family stock to the extent of not being able to break these bonds and start afresh in another social organism. As the maker of his own destiny, he has the right to "go forth out of his country, and from his kindred, and out of his father's house" (Gen. xii, 1) and to seek under other climes and in foreign nations the means of realizing the end for which he was created.

Furthermore, civilization can only spread itself among the various branches of the human family by a continuous and reciprocal communication of material goods and spiritual values. And it is evident that these fruitful exchanges are not possible

without a wide and easy circulation of people and things throughout the world.

No State can absolutely forbid this circulation by right of sovereignty. In order to safeguard the interests under its care it may make certain conditions for the departure of emigrants and the entry of immigrants. But its policy in this matter must always conform itself to the higher needs of the common good of humanity.

55. The country of origin has the right to make the emigration of its subjects conditional on the previous fulfilment of certain social duties, such as military service and the payment of taxes. Even more drastic measures could be taken to prevent collective emigration on a scale that would be gravely harmful; for in this case the interests of the social body must naturally prevail over those of the individuals anxious to leave their country.

The country of origin can also exercise, in full agreement with the authorities of the country of destination, a certain tutelary supervision of its emigrants, in providing as far as possible for their material, moral and religious needs. But these motives can never justify systematic opposition to all movements of emigration.

56. A policy of rejection on the part of the State of destination is generally just as reprehensible. The latter has no right to consider that its own subjects are to be the sole beneficiaries of the resources of its territory and to keep a jealous monopoly for them. Its restrictions upon emigration must be justified by a reasonable concern for its own self-preservation. It may make conditions for the admission of emigrants which will prevent the latter becoming dependent upon it or disturbing order and public security (health, education, morality, private means, etc.)

57. Certain countries are particularly severe towards emigrants who, by reason of their low standard of life, are likely to compete seriously with native labour, or whose racial difference is so great that they cannot be assimilated. These motives, which an exaggerated nationalism tends to magnify, justify a closer limitation of entries and appropriate measures of protection.

The bitter competition between native and foreign labour, which all agree in deploring, would be notably reduced by a

proper control of the employment and wage-rates of the workers.

The pretext of racial differences is a far more serious one. The differences between the various branches of the human family are so great that the fusion of races, though it always remains physiologically possible, is fraught with so many moral and social dangers that it is not in any way desirable. One cannot therefore condemn absolutely any measure designed to prevent a harmful fusion of races. But justice and charity demand that the people so affected should be allowed a proper field of expansion on those continents which nature itself seems to have prepared for them.

58. The State must endeavour to establish cordial and peaceful relations between those immigrants which it accepts and its own nationals, and it has undoubtedly the right to prepare, gradually and without violence, for their complete assimilation. With this object in view, it may impose its nationality on the foreigners definitely settled on its territory, or at least on their children born there, and expect from them a sincere and undivided loyalty.

59. The problem of political emigration, which various post-war events have made sadly topical, is closely connected with the questions we have been examining.

At all times a noble humanitarian feeling has led States to offer hospitality to political refugees or to victims of civil or religious persecution, on condition that they should not abuse this welcome in order to plot against the country or political régime which they had fled.

When restricted to a few individuals, this forced emigration only places upon the welcoming States a comparatively light burden, which could not justify any intervention on their part in the internal affairs of the country of origin. But it is quite a different matter when a civil, religious or racial persecution brings about a wholesale departure of people, most of them without any means of livelihood, whose sheltering and upkeep raises almost insoluble problems for the charity of the neighbouring States. A State whose vicious policy causes this migratory panic is sinning grievously against the most elementary duties of humanity and international solidarity, and its cruel methods call for the exercise of the just sanctions of the civilized world. In these cir-

cumstances it is the duty of the international authority to organize the protection of refugees and to facilitate their settlement.

VI.—The Right to Equality

60. The fundamental identity of their nature and end confers in principle on all States, regardless of their importance, the same essential rights which the fulfilment of their mission demands.

61. One must not conclude that this basic equality, which is a consequence of their similarity of nature and end, allows all States to claim absolute equality of treatment on every occasion. As in the case of individuals, the actual conditions of structure, life and cultural development create accidental differences between States which must be taken into account in the organization of international relations. It would be quite unjust to wish to apply an equal treatment to societies which in fact differ very much from one another in features and character.

62. Unequal treatment can therefore be justified:

(a) By the need of certain States, whose weakness demands the help of other nations.

(b) By special circumstances arising from neighbourly relations, common racial descent, particular promises of mutual aid and assistance.

(c) By the incapacity of a State to fulfil its international obligations or to protect efficaciously the lives and property of foreigners residing on its territory. (Capitulations.)

(d) By the risks which the excessive ambitions of a State would cause to the safety of its neighbours or to world peace. (Compulsory disarmament.)

63. Capitulations or compulsory disarmament must not be considered as determining for ever the international status of a nation. But the latter can only claim perfect equality of rights when it has previously dissipated the legitimate mistrust which caused those special measures to be applied.

64. Equality of right is one thing, actual equality is another. Just as the right to private property which every man possesses should not entail as a consequence the complete levelling of fortunes, so a State cannot avail itself of equality of rights to claim

its share in the territories of which other States have secured the just possession in the course of their evolution.

VII.—The Right to Promote National Interests

65. Since States have been entrusted with the mission of promoting to the utmost the prosperity of the society committed to their care, they quite rightly claim the right to work without hindrance for the accomplishment of this task.

The spiritual and moral progress of nations comes about in an essentially peaceful manner. Here there is no monopoly, no jealous covetousness; the scientific, artistic or religious values which enrich a nation radiate beyond its frontiers, without any loss to it, for the greater good of humanity; *licet divisus detrimenta non novit.*

It is quite different in the case of material progress. Here the resources and possibilities are limited, and their exploitation cannot fail to bring about ardent competition between the nations, which must be restrained by the law of international justice and charity if more serious conflicts arc to be avoided.

66. Pope Pius XI lays stress, in his Encyclical *Quadragesimo Anno,* on the "two-fold aspect of ownership, which is individual or social according as it regards individuals or concerns the common good." (Q.A. 45.) We must likewise admit a two-fold aspect, national and international, of the right which a nation possesses over the riches and resources of its soil. We shall not be misinterpreting the thought of the Holy Father if we transpose this passage of the Encyclical from the civil to the international order, by slightly altering certain words: "The right *of using the resources of their territory* has been given to *nations* by nature, or rather by the Creator Himself, both in order that *each one.* may be able to provide for its needs *of self-preservation and the subsistence of its members,* and also that by means of it the goods which the Creator has destined for the whole human race may truly serve this purpose. Now these ends cannot be secured, unless some definite and stable order is maintained."

67. A State would be disturbing this order if it claimed the right to use its national heritage for its sole convenience, without any regard for the higher interests of humanity, by leaving its

natural resources undeveloped or refusing to place them at the disposal of other nations who were in great need of them.

68. Nor can one allow the policy of absolute self-sufficiency of a State which, having retired within itself and being content with its own resources, would refuse its contribution to the economic progress of humanity.

This policy of self-sufficiency, far from promoting the interests of the country which practises it, deprives it of all the advantages which follow, for individuals as for nations, from the division of labour and the exchange of goods and services.

69. By its unequal distribution of capacities and resources among the nations, Providence has clearly shown its desire to bring about between States an active system of exchanges, which arc equally profitable to all who take part in them.

The definite and well-regulated order which must preside over international commerce does not forbid a State to defend against over-zealous foreign competition the industries which are already established on its territory, or which it rightly desires to set up. But it will endeavour to use moderately, and only to the extent demanded by real necessity, the weapons provided by the overstocked arsenal of Protectionism. For the close solidarity which the Creator has established between nations and the mutual assistance which it implies demand that the barriers which are placed to the free circulation of goods should be reduced to a minimum.

It may even happen that charity can oblige certain States, in helping a country in distress, to promote the disposal of excess products which gravely threaten the balance of its economic system.

70. A similar concern for international good-will should also moderate the bitterness of the competition which is witnessed in the search for international markets and in their exploitation. International order and peace demand that these efforts, which are legitimate in themselves, should finally result in a just equilibrium of commercial exchanges and in a fair division of markets between the competing nations.

Treaties of commerce, negotiated in a spirit of justice and equity, agreements between producers of various countries, a

proper adjustment of the various commercial policies brought about by wide and comprehensive international agreements, will effectively contribute to bring about this desirable result.

71. Such an adjustment is only possible if all nations allow their economic policy to be guided by 'those fundamental truths which, according to Cardinal Pacelli, constitute the "spiritual framework of a sound international economy": "First of all, there is the fundamental unity of the great human family, whom Christ has told that it has One Father Who is in Heaven; all the members of the various nations have the duty to reflect generously on other nations the love they are bound to manifest towards their own country; it means also that every nation has the duty to respect the legitimate interests of other countries. Furthermore, all nations are bound to practise justice and charity towards one another; this means above all, for all the States taken collectively, the furtherance and service of the international common good, in the same way as the citizens and rulers of each one of them have to further and serve a more proximate and less extensive common good; at the same time, all nations must realize their interdependence, and adapt corresponding methods of collaboration to each aspect of their solidarity; so that if they must, generally speaking, reorganize their national economic systems, they shall not systematically concentrate on themselves behind more and more impassable economic barriers, but shall rather bring into honour the strict virtues which His Holiness Pius XI recommends in his last Encyclical." (Letter of 28th June, 1932, to M. E. Duthoit, President of the "Social Weeks" of France, on the occasion of the Social Week held at Lille.)

Chapter VI

THE MORAL ORIGIN OF CIVIL AUTHORITY[1]

By Louis Cardinal Billot, S.J.

The statement that political authority is immediately from the people, can be understood in two ways: Either from the people, as it were, abdicating and transferring by a donation or contract that authority to those who preside over the commonwealth; or from the people, creating organic law in virtue of which authority is embodied in such or such a governmental form, and given to such or such a possessor. . . . The difference between these two ways may be illustrated by an example taken from the law of property. I may receive dominion over a thing from another person, as the rightful possessor who now makes mine that which was his, as if Titius would donate to me his field; or from another, as from the immediate author of a law by which dominion is acquired, as if, in virtue of prescription enacted by the civil legislator, I begin to be the owner of a piece of land which before did not belong to me. That magistrates derive their power proximately from the people, is explained by most of the older scholastics according to the analogy of the former example. But we think that we should base the explanation rather on the second example. However, these points concern only the deeper understanding of the doctrine, and maybe this is a dispute more about words than things. In any case, forms of government and titles to exercise power, and power itself, as existing in its determinate possessors, are not immediately from God, but only through the medium of human consent, that is, the consent of the community.

1 The paragraphs of this chapter are a free translation of the greater part of Propositions III and IV, section 1, question 12, chapter 3, *De Ecclesia Christi.*

An objection to the foregoing statement has been brought forward from the words of the Encyclical of Pope Leo XIII, *Diuturnum Illud:* "It is important to bear in mind that those who are to preside over the commonwealth can in some cases be selected by the will and judgment of the multitude, without any opposition on the part of Catholic teaching. By this selection indeed the sovereign is designated, but the rights of sovereignty are not conferred: authority is not delegated, but the person who is to exercise it is designated." We reply that these words merely set forth the pure and simple doctrine of faith against the pernicious innovation with which very many were infatuated in the sixteenth century, and which in the eighteenth century led to the monstrous error of the Social Contract. . . . What the Pope denies is that the popular choice ever confers the rights of sovereignty in the sense of those who oppose Catholic doctrine; that is, in the sense that the right of sovereignty *in itself* comes from the people, after the manner of an instrumental power which flows from a supreme commissioner to one commissioned. In a word, the Pope denies what has been unanimously denied at all times by Catholic theologians. And the Pope agrees with the theologians likewise in his positive affirmations. Since authority in itself is constituted not by human but by divine natural right, there is nothing left for human will or action but the determination and designation of the ruler. . . . Through this designation the people become the proximate cause, not indeed of power as such, but of the conjunction of power with such a person, according to such or such a measure, and such or such conditions. Hence the Pope's statement docs not remove from the community the power that is truly constitutive of government. . . .

Other objections are made by recent authors who hold that the power of sovereigns is derived immediately from God. One of these maintains that society cannot confer authority, since there is no constituted society prior to the institution of a government. I reply: At the moment before the institution of a government there exists a society constituted, not indeed ultimately and in perfect actuality, yet in potentiality, whenever there exists a determinate multitude of men assembled to help one

another for a political end. Nor are the means wanting to produce the effect. Unless we fancy that civil societies have been immediately instituted by nature, we must recognize the existence of some constituting power in the community, in the first stage of political society. Before the institution of a government, therefore, there is already at hand a social power, not indeed for governing that society, but for constituting sovereignty from which the governing power is derived. . . .

According to the second objection, if political power is from God in any way whatsoever, it must be from God in some determinate and concrete subject or possessor. My reply is that political sovereignty, in so far as it is from God, exists immediately in a concrete subject or possessor, namely, in the community itself, by which it is afterwards retained, or is transferred to one monarch, or to a select group. Moreover, the power of jurisdiction is not to be likened entirely to physical forms which do not exist except in some determinate subject. If this were true, the Papal power would be extinct in the interval between the death of a Pope and the election of his successor. ... If you ask where is political power, as immediately instituted by God? I reply: In the law of nature, or in the ordinance of the divine reason, which is manifested by human nature and written in the human mind. But this general ordinance must be determinated by men. Hence the actual holder of political authority, holds it by human law as its proximate source; but political authority as such docs not come from men; they merely determine the form in which it will be actualized, and the person or persons by whom it will be exercised.

The third objection is that this doctrine of popular determination of government and selection of the ruler, provides a foundation for sedition and rebellion against the monarch. In reply, I would point out that there is no doctrine which cannot be abused. Yet no doctrine ought to be condemned for that reason alone. The view that authority is conferred by God immediately upon the ruler has likewise been abused, and it is hard to tell which abuse has been the greater or the more detestable. It is certain that the regalists have been led to conclude that kings as such may claim supreme indifference or

irresponsibility, whence they extended the powers of civil society even over religion. . . . All that we can do is to abstract altogether from abuses, and to seek only what truly follows from principles. There is no foundation for rebellion in any doctrine which asserts the divine precept of obedience to constituted authority. This precept is neither taken away nor lessened by our doctrine. From the fact that the ruler does not derive his authority immediately from God, it does not follow that the precept of obeying constituted authority is destroyed or weakened.

Nor docs it follow that one government can be deposed and another instantly substituted at the whim of the multitude. . . . A will which does not follow the order of reason neither has nor can have validity. However, let us not conjure up imaginary suppositions which have no place in our actual world. Let us remember that changes of government, whether licit or illicit, are humanly unavoidable, and that this instability can never be eradicated by any force or any theory. The practical question is, which of the two doctrines that we arc considering is more conducive to the peace and prosperity of the commonwealth? Is it our doctrine? or is it forsooth that other doctrine which is based on a preposterous conception of legitimacy, and which would recognize in dynasties of kings a right as immovable as in the succession of the Pope to the Apostolic See? Let us consider this question at somewhat greater length.

The right of sovereignty is unlike the right of property, inasmuch as it is by nature ordained not for the benefit of him who holds it, but for the benefit of society. Hence if at any time the public good requires a new form of government and a new designation of rulers, no pre-existing right of any person or any family can validly prohibit this change. The right to create the new legitimate government inheres in the community habitually or potentially. However, it ought not to be used rashly and whimsically, but only when its use is demanded by the common good and social tranquillity.

The question may be asked, When is the demand of social necessity evidently verified? For answer we do not need to go far away, nor to take refuge in metaphysics. The necessity of

constituting a new government exists whenever the preceding government has been destroyed, and there has been introduced a new' government w'hich cannot be abolished without detriment to peace. In such a situation, the new government is legitimate, even though the preceding one was destroyed by iniquitous rebellion, for the only pertinent question concerns w'hat is here and now' required by the supreme law' of the common good. By this supreme criterion it is evident that the community has the same right to constitute a new' sovereignty as it had at the beginning of its political existence. Generally speaking, every civil government is to be held legitimate from the moment when it has been constituted and accepted and regularly exercised. . . .

This conclusion is confirmed by the ancient and immemorial practice of the Church. She has always recognized as legitimate governments of whatsoever origin, once they had been constituted and had been confirmed by the consent of peoples. . . . This perpetual practice and discipline of the Church has been illustrated by a doctrinal declaration of Pope Leo XIII in that memorable Encyclical to the French, *Au Milieu des Sollicitudes:*

> However, here it must be carefully observed that whatever be the form of civil power in a nation, it cannot be considered so definitive as to have the right to remain immutable, even though such were the intention of those who, in the beginning, determined it. . . . Only the Church of Jesus Christ has been able to preserve, and surely will preserve unto the consummation of time, her form of government. Founded by Him who was, who is, and who will be forever, she has received from Him, since her very origin, all that she requires for the pursuing of her divine mission across the changeable ocean of human affairs. And, far from wishing to transform her essential constitution, she has not the power even to relinquish the conditions of true liberty and sovereign independence with which Providence has endowed her in the general interest of souls. . . . But, in regard to purely human societies, it is an oft-repeated historical fact that time, that great transformer of all things here below, operates great changes in their political institutions. On some occasions it limits itself to modifying something in the form of the established government; or, again, it will go so far as to substitute other forms for the primitive ones—forms totally different, even as regards the mode of transmitting sovereign power.
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> And how are these political changes of which we speak produced? They sometimes follow in the wake of violent crises, too often of a bloody character, in the midst of which pre-existing governments totally

disappear; then anarchy holds sway, and soon public order is shaken to its very foundations and finally overthrown. From that time onward a social need obtrudes itself upon the nation; it must provide for itself without delay. Is it not its privilege—or, better still, its duty—to defend itself against a state of affairs troubling it so deeply, and to re-establish public peace in the tranquillity or order? Now, this social need justifies the creation and the existence of new governments, whatever form they take; since, in the hypothesis wherein we reason, these new governments are a requisite to public order, all public order being impossible without a government. Thence it follows that, in similar junctures, all the novelty is limited to the political form of civil power, or to its mode of transmission; it in no wise affects the power considered in itself. This continues to be immutable and worthy of respect, as, considered in its nature, it is constituted to provide for the common good, the supreme end which gives human society its origin. To put it otherwise, in all hypotheses, civil power, considered as such, is from God, always from God: "For there is no power but from God."

Consequently, when new governments representing this immutable power are constituted, their acceptance is not only permissible but even obligatory, being imposed by the need of the social good which has made and which upholds them. This is all the more imperative because an insurrection stirs up hatred among citizens, provokes civil war, and may throw a nation into chaos and anarchy, and this great duty of respect and dependence will endure as long as the exigencies of the common good shall demand it, since this good is, after God, the first and last law in society.

Chapter VII

THE RIGHT OF SELF-GOVERNMENT

The word "democracy" has several meanings, but only two of them will be considered here. In its most widely accepted sense, it means government with the consent of the governed. In the next most important sense, it indicates the form of political organization known as representative government. The former principle was explicitly defended by a long list of Catholic theologians and canonists between the ninth and the sixteenth centuries. Hincmar of Rheims, Mancgold of Lautenbach, William of Auvergne, Thomas Aquinas and Duns Scotus—are the principal names. At the end of the sixteenth century and at the beginning of the seventeenth, the traditional Catholic doctrine on the right of self-government received its final and systematic form at the hands of Cardinal Robert Bellarmine, S.J., and Reverend Francisco Suarez, S.J. It may be thus summarized: political authority comes from God directly to the whole community; from the community it is transferred to the particular ruler, who may be a king, a parliament or an aristocratic group; and the community has the right to determine which of these polities it will have.

It is to be observed that Bellarmine and Suarez were discussing not the best form of government, but the moral origin of political authority. Much of what they wrote was directed against the doctrine of the divine right of kings as defended by King James I of England. The latter maintained that the right to govern came to him, and to every other king, directly from God. Bellarmine and Suarez agreed with James that the right to rule comes to the ruler from God indeed, but indirectly; that is, through the people by their consent given either explicitly or implicitly.

It is sometimes said that the traditional preference of the Catholic Church has been for monarchy and the opinion of the

greatest of the Catholic philosophers and theologians is sometimes cited to this effect. I refer to Saint Thomas Aquinas. As a matter of fact, the polity that he favored would be more accurately described as republican than as monarchical. Here is his statement on this point:

> The best arrangement of rulers in any city or kingdom is had when one man is, according to merit, set at the head to preside over all, and under him are others ruling according to merit; yet such a régime is the concern of all because the rulers are not only elected from all but also elected by all.[1]

Cardinal Bellarmine sets forth at greater length substantially the same view. A combination of all that is best in monarchy and democracy and discarding of what is worst must, he says, logically prove to be a "more useful" form of government.

Here in the United States, substantially the whole population accepts the doctrine that all nations, large and small, have the right to choose their own form of government and their own political rulers. We still subscribe, as we always have subscribed, to the statement in the Declaration of Independence, that "governments derive their just powers from the consent of the governed."

To what extent is this political doctrine in harmony with the principles of the Catholic Church? Has it ever received anything like formal approbation? May a Catholic apply this democratic principle to the case of those small nations that are denied the right of self-government by some of the European powers?

No formal, official declaration has come from the Church on any of these questions. She teaches that government of some kind is necessary for human welfare, and is therefore required by Divine Providence. The Scriptural basis of this teaching is most definitely stated by St. Paul, in the thirteenth chapter of the Epistle to the Romans: "Let every soul be subject to the higher powers; for there is no power but from God; and those that are, are ordained of God. Therefore, he that resisteth the power, resisted the ordinance of God." In his encyclical *On the Christian Constitution of States (Immortale Dei)* Pope Leo XIII wrote: "Every civilized community must have a ruling authority, and

[1] *Summa Theologica,* Prima Secundae, Q. 105, A. 1.

this authority, no less than society itself, has its source in nature, and has consequently God for its author. Hence it follows that all public power must proceed from God. The right to rule is not necessarily, however, bound up with any special mode of government. It may take this or that form, provided only that it be of a nature to ensure the general welfare."

The words of St. Paul cited above might, indeed, be understood as expressing the doctrine that the actual ruling persons in any country always have a right to obedience from the subjects or citizens. According to that interpretation, no people, not even one that had been subjected by force, would ever have the right to withhold submisson, or to strive for "self-determination." The existing government would always be a morally legitimate government. Happily, this is not the interpretation put upon the words of the Apostle by the Catholic Church. The authoritative Catholic understanding of the passage is found in the quotation from Pope Leo XIII. The latter speaks of authority as coming from and sanctioned by God; he does not say that the concrete form or the personal bearer of authority has in every case divine authorization. He is discussing the abstract right to rule, not the concrete right of any particular person who happens to occupy the position of ruler. The "power" and "powers" of which St. Paul speaks are to be understood in exactly the same sense. They refer to the abstract right or authority, not to the concrete government or governor. Whether the person or persons who arc actually in control of a given country do or do not possess this abstract right, is a question that cannot be decided by reference to the words of either St. Paul or Pope Leo. Hence their statements cannot be used against the theory that every people has a right to determine the form and personnel of its government.

While the Church has made no pronouncement for or against the right of national self-government, her competent private teachers, the moral theologians and canonists, have discussed the question at considerable length. As we have just seen from the words of St. Paul and Leo XIII, the ruler derives his right to rule from God, Who is the source of all authority. Immediately, therefore, we face the questions: How does this governing au-

thority descend from God to a ruler? How can we know that it has actually been conferred upon an existing king, president, or parliament? Theologians and canonists have dealt with these questions in considerable detail.

As regards the-manner in which the right to govern reaches the first legitimate ruler of a State, the majority opinion among Catholic writers is that stated by Cardinal Bellarmine and Francisco Suarez. Bellarmine's doctrine may be summarized as follows: Political authority in general comes directly from God to the whole community. Since God has not given it to any one in particular, there is no natural reason why it should reside in one rather than another of many equal individuals. Inasmuch as the community is unable to exercise this authority directly, it must transfer the function to one or to a few persons. The community, the "multitude," also has the right to determine the form of government, whether it is to be a monarchy, an aristocracy, or a democracy, and, for a legitimate reason, to change any one of these forms into another. While the authority is, indeed, from God, it becomes particularized in one or more individuals through human counsel and choice.[2] Bellarmine expressed this truth most clearly when he wrote:

> But in this place other matters should be noted. First, political power considered in general, not descending in particular to Monarchy, Aristocracy, or Democracy, comes directly from God alone; for this follows of necessity from the nature of man, since that nature comes from Him Who made it; besides, this power derives from the natural law, since it does not depend upon the consent of men; for, willing or unwilling, they must be ruled over by some one, unless they wish the human race to perish, which is against a primary instinct of nature. But natural law is Divine law; therefore, government was instituted by Divine law, and this seems to be the correct meaning of St. Paul when he says, "He that resisteth the power, resisteth the ordinance of God."
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> Note, secondly, that tiûajæggr résida. a? ui ite ïiiViwt. immediately in the whole state, for this power is by Divine law, but Divine law gives this power to no particular man, therefore, Divine law gives this power to the collected body. Furthermore, in the absence of positive law, there is no good reason why, in a multitude of equals, one rather than another should dominate. Therefore, power belongs to the col-3

[3] *De Laids,* Chap. VI.

lected body. Finally, human society ought to be a perfect State, therefore, it should have the power to preserve itself, hence, to punish disturbers of the peace, etc.

Note, in the third place, that, by the same natural law, this power is delegated by the multitude to one or several, for the State cannot of itself exercise this power, therefore, it is held to delegate it to some individual, or to several, and this authority of rulers considered thus in general is both by natural law and by Divine law, nor could the entire human race assembled together decree the opposite, that is, that there should be neither rulers nor leaders.

Note, in the fourth place, that individual forms of government in specific instances derive from the law of nations, not from the natural law, for, as is evident, it depends on the consent of the people to decide .whether kings, or consuls, or other magistrates are to lx? established in ^'authority over them; and, if there be legitimate cause, the people can change a kingdom into an aristocracy, or an aristocracy into a democracy, and vice versa, as we read was done in Rome.

Note, in the fifth place, that it follows from what has been said that this power in specific instances comes indeed from God, but through the medium of human wisdom and choice, as do all other things which pertain to the law of nations.[8]

This doctrine was far from acceptable to the defenders of the "divine right of kings," which was claimed by more than one monarch in the days of Bellarmine. James I, of England, was so displeased and disturbed by the declarations of the Roman Cardinal that he took the trouble to write an attempted refutation. He contended that the king did not derive his authority from the people, but from God immediately. Against this assertion the Spanish theologian, Suarez, wrote several chapters in his *Defensio Fidei Catholicae.* He pointed out that the opinion enunciated by the King of England was "new' and singular, invented to exaggerate the temporal and to minimize the spiritual power"; and that the doctrine of Bellarmine was "the ancient, commonly accepted, and true teaching." Supreme political authority, he maintains, is given by God directly to the political community as a whole, inasmuch as He made men of such a nature that they need to have a political organization. There is nothing in the nature of things to show that this organization should take the form of a monarchy or an aristocracy, nor that the ruling

[3] *Ibid.* English translation by K. E. Murphy, Ph.D., New York, 192S.

authority should be located in any given person or group of persons. Political authority resides in the community as a whole, and may be transferred by the community to one or more persons. Whence it follows that no monarch has ruling power immediately from God, but through the medium of the human will and human institution.[4]

Suarez concludes this part of his argument with the statement that this doctrine is not new, nor invented by Bellarmine, and he gives a long list of theological and canonical writers in proof of its universality and antiquity. Otto Gierke, a distinguished non-Catholic authority, tells us that, "an ancient and generally entertained opinion regarded the will of the people as the source of temporal power. . . . Indeed, that the legal title of all rulership lies in the voluntary and contracted submission of the ruled, could therefore be propounded as a philosophic axiom."[5] According to Dr. A. J. Carlyle, "the fact that in mediæval theory the authority of the king is founded upon the election or at least the recognition of the community, docs not in truth require any serious demonstration."[6] Although Cathrein rejects the doctrine of his fellow Jesuits, Bellarmine and Suarez, he admits that it was held by almost all the Schoolmen.[7] Meyer concedes that "many Christian teachers" of the Middle Ages held that kings were not immediately appointed by God but mediately through the election or consent of the people; however, he maintains that these writers did not all clearly profess the opinion that the "mediating" act of the people consisted in transferring to the monarch political power; he contends that the expressions of some of them merely meant that the people have the right to determine the form of government and designate the person who is to rule.[8]

These qualifying observations are not of great practical importance. In the first place, he should have said "all Christian writers," for he docs not mention a single exception to the general fact that mediæval opinion denied that political power comes to the ruler immediately from God. In the second place, if it be

[4] Lib. III, cap. ii; ci. *De Legibus,* III, cap. ii.
[5] *Political Theories of the Middle Age,* pp. 38, 40.
[6] *History of Mediaeval Political Theory in the West,* Vol. III, p. 153.
[7] *Philosophia Moralis,* no. 490.
[8] *Institutiones Juris Naturalis,* II, 350,351.

held that the consent of the people is always a necessary prerequisite to the assumption of political power by any person, it is of no practical significance whether the people be conceived as handing over to the ruler authority which God has deposited with them, or as designating the person upon whom God will confer the authority. In either supposition God does not bestow authority, nor does the ruler receive it, until the people have somehow given their consent.®

To sum up the historical situation: down to the nineteenth century, Catholic moralists and jurists, with the exception of certain adherents of Gallicanism, were unanimous in holding that the consent of the people was required to make the position of a ruler morally legitimate; and the majority of them maintained that the people had a right, not only to select the ruling person, but to confer the ruling authority.

The insistence of Suarez upon the doctrine that authority comes to the ruler only through the people, was to some extent due to the circumstances of his own time. Even before the Reformation, a tendency had appeared among some monarchs to claim authority directly from God. Kings who got into conflict with the Pope made this claim in the hope of strengthening their position; for if their authority was conferred upon them by a direct divine grant, it was on as high a plane as that of the Pope himself. This was the position taken, for example, by the rebellious imperial princes of Bavaria in a document addressed to the Pope toward the middle of the fourteenth century. In passing, it is worthy of notice that the monarchs who set up such a claim used it to exaggerate their own power, not only as against the authority of the Roman Pontiff, but as against the rights and liberties of their subjects. They were gradually approaching that claim of absolute power which was reached by many post-Reformation monarchs, but which "was wholly foreign to the Middle Age."[10] In resisting these pretensions, the Popes of the latter Middle Ages not only were defending their own spiritual and moral prerogatives, but in a very effective way protecting the rights of

•Cf. Baltnez, *Protestantism and Catholicity in Their Effects on the Civilization of Europe,* pp. 305-311.

10 Cf. Gierke, *op. cit.,* pp. 35 *et seq.*

the people against royal encroachment and absolutism. Even Lecky admits that the power exercised by the mediæval Popes over secular princes was "on the whole favorable to liberty."[11]

This exaggeration of royal authority became much more general and more excessive after the Reformation; for the Protestant monarchs were impelled by religious as well as political motives to exalt their power as compared with that of the Pope. In this they derived powerful assistance from the teachings of the Reformers, who declared that secular princes ruled by divine right. "In fact, the religion of the State superseded the religion of the Church. Its first form was the Divine Right of Kings. Luther and Machiavelli were two of the most important factors in the change."[12] Since they denied that their ruling authority was limited by cither the Pope or the people, the Protestant monarchs naturally claimed that it came directly from God, quite in the same fashion as that of David and Saul. James I declared that his power was at once civil and ecclesiastical.

This doctrine, declared Suarez, is "new and singular, and invented to exaggerate the temporal and to minimize the spiritual power." He saw clearly that if the doctrine of James went uncontroverted it would have the effect of injuring the prestige of the Church in every nation whose ruler, whether Protestant or Catholic, made such a claim. Therefore, he stated the doctrine of the indirect derivation of civil authority, of its transfer to the king by the people, in the most systematic and convincing form that it had received up to his time. Fortunately he was able to show that such had been the traditional teaching of both theologians and jurists all through the Middle Ages; but the powerful religious motive that lay behind his argument cannot nor need not be denied.

In precisely the same way, the special circumstances of their time have been largely instrumental in determining many Catholic writers of the nineteenth century to depart from the doctrine of Bellarrnine and Suarez. The superficial resemblances between this doctrine and the theories of popular sovereignty associated with the French Revolution and with subsequent

11 *Rationalism in Europe,* Vol. II, p. 142.
12 *From Gerson to Grotius,* by John Neville Figgis, p. 71.

revolutionary movements, seem to have impressed these nineteenth century writers as a grave danger to civil order and to the stability of royal dynasties. Hence they have turned their backs upon the traditional teaching that authority comes to the ruler only through the people. The principal names in this group arc Haller,[13] Taparelli,[14] Liberatore,[15] Meyer,[16] Cathrcin,[17] and Cronin.[18] All but the first and the last of these arc, like Bellarmine and Suarez, members of the Society of Jesus. On the other hand, one of the ablest recent defenders of the traditional doctrine is likewise a Jesuit, Costa-Rosetti.[19]

That the apparent support given by the older doctrine to popular sovereignty and to the overthrow of monarchs has been a powerful motive in the rejection of that doctrine by the writers cited above, is clearly established by their own assertions and admissions. Taparelli intimates that Suarez and the other ancient exponents of the traditional doctrine would probably have modified their views had they lived two centuries later, in the midst of the havoc wrought by popular revolutions; and he expresses his astonishment that many should continue to boast of the sovereignty of the people and the inalienable rights of man to govern himself.[20] Meyer declares that in our age we ought to beware of defending doctrines which lend support to the ever increasing opposition to the monarchical form of government.[21]

Nevertheless, all these writers defend the traditional doctrine against the charge that it is equivalent to the social contract theory of Rousseau. They ¡joint out that the two doctrines are similar only superficially, inasmuch as both attribute the origin of civil society to a social compact, and teach that political authority resides primarily in the whole people. But these principles are very differently interpreted in the two doctrines. According to Suarez, political government is a natural necessity,

13 *Restauration, der Staatsuñssenschaften,* 1820.
14 *Sagffio teorético di diritto naturale,* 1856.
15 *Institutiones Ethicae,* 1887.
,a *Institutiones Juris Naturalis,* 1900.
17 *Philosophia Moralis,* 1900.
18 *The Science of Ethics,* 1917.
'• *Philosophia Moralis,* 1886.
20 *Op. cit.,* nota 79.
« *Op. cit.,* II, 375.

and a community is not free to dispense with it; according to Rousseau, primitive men were under no moral obligation to organize themselves into a political society. According to Suarez, many of the individual's rights come from nature and from God; according to Rousseau, they all proceed from the social compact. Suarez maintained that political authority is derived ultimately from God, who confers it upon the people, while Rousseau held that it rests in the people ultimately and fundamentally. In the doctrine of Suarez, political authority rests in the people as an organic whole, or community; in the opinion of Rousseau, it is merely the sum of the rights of the individuals and is shared by each as an individual. There are other important differences, which need not be stated here.

Now the fact that the traditional doctrine may be misinterpreted and abused so as to give countenance to unsound revolutionary principles, or even to unjustified rebellions, is not a sufficient reason for discarding it, any more than the fact that the theory defended by the more recent Catholic writers can be, and has been, wrested to the support of despotism and absolutism, is a sufficient reason for adopting the older doctrine. Indeed, it is a fair question for debate whether the harm done to religion and to human welfare by the abuse of the more recent theory has not been greater than that resulting from the misapplication of the doctrine of Bellarminc and Suarez. In any case, the really important question is the objective soundness of either doctrine, and not its accidental consequences.

The Catholic writers who reject the theory of Suarez appeal in the first place tn history, pointing to the well-known fact that the first rulers of many tribal and patriarchal societies did not owe their position to any sort of pact between themselves and the community, and contending that the latter gave no genuine consent to a transfer of political authority to the former. Nevertheless, Suarez declares that in such cases implicit consent sufficed, and that the people really gave this, inasmuch as they made no objection when the patriarchs gradually came to exercise political as well as domestic authority. This was surely effective, even though passive and informal, consent; for if the people had not been satisfied they would have offered opposition. The

second historical argument used by the modern writers, is that in some primitive societies the ruler obtains authority by the simple fact that he is the only one that is capable of governing; therefore, it is unnecessary and unreasonable to suppose that the people have a right to give or withhold political power. Unfortunately this argument is sometimes presented in terms that would justify mere physical force as a determinant of the right to rule. Cathrein declares that in some communities the patriarch was the one man fit to govern because he would not submit to any other ruler, and because he possessed sufficient physical power to make his refusal effective."[22]

It When, however, Cathrein lays stress upon the moral and intellectual prestige and qualifications of the patriarch, as the basis of the latter's exclusive right to govern, his argument is at least worthy of respect. If there have been, and the hypothesis seems not unhistorical, primitive societies in which only one man was capable of governing with even a minimum degree of efficiency, it seems reasonable to say that only that man had the right to exercise political authority, and therefore that the people had no right either to confer or withhold such authority. Since the sole purpose and justification of government and titles of authority is the welfare of the people, it would seem that when this end can be secured only through one man, the people have no reasonable choice in the matter. They have not even the right to make their consent decisive in the selection of the person.

The second or positive line of argument against the Suarezian theory takes the form of a direct attack won the principle. It denies that the title of rulership is ever bestowed by God upon the whole people, except in the rare case in which they exercise the authority themselves; that is, in a pure democracy. Political authority, says Dr. Cronin, is an attribute of the ruler as such, just as domestic authority belongs to the position of the parent.[23] Where, then, did authority rest before it became attached to the patriarch, council or king? Nowhere. It is not like a physical entity that must have a local habitation before it can come into a person's possession. It is an attribute which attaches itself to

[22] *Op. cit.,* no. 502.
[23] *Op. cit.,* II, pp. 499-503.

the ruler through the occurrence of certain particular events, just as parental authority attaches itself to the father and mother by the fact that a child is born to them. They then receive the authority from God. In similar fashion the legitimate ruler receives his authority directly from God.

This argument and the latter part of the second historical argument, summarized above, seem to be convincing. Moreover, there is another line of reasoning which seems to reënforce these arguments and to weaken very seriously, if it does not entirely destroy, the cogency of the Suarezian doctrine. It leads to the conclusion that the central principle of the doctrine is gratuitous and unnecessary. Why should we assume that God gives authority to a king or a president through the people? Why should He not confer it upon the accredited ruler directly? Only one possible reason can be brought forward in support of the theory of indirect transmission. It is that this method is somehow required for the welfare of the people.

With the exception of the right to life, all natural rights are merely means to the attainment of some necessary personal or social end. Thus, private property and government are required for the reasonable life and development of the individual; hence he has a right to acquire goods and to have the benefit of a government. But the power to receive political authority from God and to transmit it thence to the ruler is not necessary for the welfare of the community. Even if we were to assume that the consent of the people is in every instance a necessary condition to the legitimate reception and exercise of political authority by the ruler, we are not logically driven to the conclusion that the people must become the depositary and transmitter of that authority. It is enough to assume that they have the exclusive right to designate the ruling person, and that God invariably bestows the authority directly upon the person thus designated.

Some of the opponents of the Suarezian theory have contended that it was rejected by Pope Leo XIII in his encyclical *Diuturnum*, and by Pope Pius X in his letter condemning the Sillon; but the contexts of the expressions used by both Popes show that they were refuting the eighteenth century theory of popular sovereignty. Neither of them makes any clear allusion to the

doctrine of Bellarmine and Suarez. It is quite unfair and unscientific to read into two isolated sentences a condemnation of a doctrine which was taught by the great majority of Catholic moralists and jurists for upwards of seven centuries. Therefore, it cannot be seriously maintained that the traditional doctrine has been superseded by the official authority of the Church. We are still perfectly free to adopt it if we are convinced by the reasons urged in its favor.[24]

We have to admit that the traditional doctrine is very attractive to the believer in political democracy. It seems to provide a simple and obvious weapon for refuting the pretensions of autocracy. And it immensely enhances the dignity of the people, by making them the depositary of a most important moral prerogative. It is particularly pleasing to Americans, and above all to 'American Catholics. Fonthe resemblance between it and certain well-known clauses in the Virginia Declaration of Rights, as well as in our national Declaration of Independence, is obvious and striking. These documents declare that goverriments derive their just powers from the consent of the governed, and that the people have the right to alter or abolish any political rule that becomes destructive of the true ends of government. Suarez declares that if the power of the ruler be not proximately or remotely derived from the people and community, it is not just[25] and that when the monarch converts his government into a tyranny, the people can revoke the grant of authority.[26]

Indeed, it may be persuasively argued that these two great Declarations have come more or less directly from Suarez or Bellarmine or both. Thus, Mr. Gaillard Hunt, formerly of the Library of Congress, declared that Thomas Jefferson derived from Bellarmine substantially the wording in which he stated these famous doctrines. In the opinion of Mr. Hunt, "it should be a satisfaction to Catholics that the fundamental pronouncements upon which was built the greatest of modern revolutions found their best support in the writings of a Prince of the Church."[27]

24 Cf. Costa-Rosetti, *op. cit.,* pp. 628-630; Meyer, *op. cit.,* pp. 370-372.
25 *De Legibus,* III, cap. iv, par. 2.
26 *Defensio,* III. 3, 7.
27 *The Catholic Historical Review,* October, 1917, p. 289.

An Irishman, Professor Alfred Rahilly, goes further, declaring that, while Catholic scholars "have largely forgotten the great seventeenth century exposition of Christian Democracy, the influence of Suarez, working through English Whigs and Puritans and culminating in the American Declaration of Independence, is once again inspiring men toward freedom."[28]

Nevertheless, if the theory that political authority is transmitted to the ruler by the people is improvable on grounds of logic, and unnecessary as a basis of democracy, it should not command our assent merely because it has done valiant service against the autocracy and tyranny of a James I, a Louis XVI, or a George III. Our political philosophy should be based upon necessary and universal principles. Let us then consider on their merits the following questions: What is the true basis of the claim that every people has a right to determine the form and personnel of its own government? How far is this claim justified?

The doctrine of Bellarmine and Suarez, so far as we have considered it in the foregoing pages, applies directly to those communities only that are at the beginning of their political history. It deals with a people that is about to have its first government and its first ruler. Confining our attention for the present to situations in which a government is about to be set up, we shall find that the questions just asked cannot always be answered in the same way. Let us take first the case of a semi-civilized tribal community that has hitherto possessed no social organization except that which necessarily grew out of the association and relations of men and women who are united by the bond of blood under the authority of a supreme father or patriarch. Now that they are becoming more numerous, the tie of kinship more slender, and their life more settled, the more intelligent among them are acquiring political consciousness. They are beginning to see that order and security cannot be maintained unless the patriarch, or someone else, exercises those additional functions of authority that are called political. Now it may happen—historically it has happened—that the existing patriarch is the only man in the community who is capable of giving a gov-29

[29] *Studies,* March, 1918, p. 21.

eminent that will have even elementary efficiency. The alternative to rule by the patriarch is downright anarchy.

In such circumstances the only reasonable solution is the exercise of political authority by the patriarch. Even though the community should not consent, should oppose his authority by physical force, his moral right to rule seems to be impregnable. Since the patriarch is the only one capable of ruling, he is the only one who has a moral right to rule. The people have no right to refuse their consent. Why? Because the rule of the patriarch is necessary for their welfare,rTo contend that they have a right to reject the patriarch, is to assume that a right may exist which has no rational end, or rather which leads to an end that is positively irrational, that is, anarchy. There can be no such right. As noted on a preceding page, the supreme determinant of human rights is human welfare, the welfare of the people; but this requires that the patriarch should exercise political power. Therefore, he has the moral right to exercise it, and the people have no right to prevent him. And his authority comes directly from God.

Let us now' consider the case of a savage or semi-savage people that possesses some rudimentary show of political organization, but that exhibits conditions little better than those of anarchy. Life, limb and property are always in jeopardy, and there are no such institutions as schools or churches. Although the territory occupied by this people contains natural resources w'hich w'ould be of great benefit to the human race, the native rulers are unwilling or unable to provide those public safeguards which are necessary to exploit and utilize these great natural bounties. Suppose now that a civilized power desire to intervene in the affairs of this impotent community in order to set up a stable government, and to render the natural resources available for the satisfaction of human wants. We shall assume that the intervening nation will, as rapidly as possible, educate the natives and introduce civilized institutions, including some degree of local self-government. We shall further assume that the natural resources of the country will be utilized and developed with adequate regard to the rights and welfare of the occupants of the subjected territory. Finally, let us assume that in consequence of this

beneficent, though forcible, intervention, the native population will at the end of one hundred years be immeasurably farther advanced toward civilization and satisfactory social conditions than they would have been if left to their own devices. All the foregoing suppositions are within the reach of actual achievement by a civilized nation that is truly humane and Christian.

In this situation the outside nation has surely the right to intervene and impose its government upon the helpless community. The latter has no right to oppose or resist, no right to choose some other government, no right of "self-determination." And the sufficient proof that no such right exists is to be found again in the end of all rights, human welfare. The welfare of this people will be hindered instead of promoted by the attempt to govern themselves; therefore, they have no right to make such an attempt.

It must be admitted that the civilized nations which have imposed their rule upon savage or semi-savage people have not, as a rule, carried out the enterprise in the spirit or with the results assumed above. Nevertheless the abuse of a right does not operate to destroy the right. If it did, we should have to deny that any people has any right to democratic institutions, since the latter have been quite frequently manipulated to the injury of the people and the violation of human rights. All that we are concerned with here, is the general principle that uncivilized, and perhaps partially civilized, people sometimes lack the moral right of self government. It is no part of our task to justify the historical acts of national injustice that have been committed in the name of the principle.

Turn we now to the case of the American Colonists after the surrender of Cornwallis at Yorktown. The victorious army has determined, we will assume, to make General Washington emperor. Let us assume further that he and his associates could have set up the imperial form of government at the cost of little bloodshed, and could have given the new political community a somewhat more efficient government than the one that actually came into being after the adoption of the Federal Constitution. Nevertheless, the people did not want either the empire or the

emperor. They would yield only to the superior force exerted by the army.

In this case there is not a shadow of doubt that the imperial government would have been morally illegitimate. Washington would not have derived from God the authority to govern. For the refusal of the people to consent to his regime would have rendered beneficent government impossible. Within a few years it would probably have been overthrown by armed insurrection. A people that had made such sacrifices to rid themselves of British autocracy, would not soon have submitted to another form of autocracy. Since the imperial government could not have promoted public welfare, it would have lacked the one indispensable element of justification.

On the other hand, the people of the Colonies were capable of determining for themselves and of maintaining a form of government that would promote their welfare to a reasonable degree. Therefore, they had a right to make such a determination. To justify this right we do not need to recur to the Suarczian hypothesis that the people were the depositary of political authority, and had a right to confer it upon whomsoever they chose. Their right of self-determination had ample moral and logical support in the fact that their welfare, their personal and social development, would in the long run be better promoted by a government that they themselves set up than by one that they did not care to have.

Yet we have assumed that "Emperor" Washington and his associates could have provided an administration technically more efficient than that of the young republic. Why should the likes and dislikes of the people be decisive in the matter of political rights? As well might one ask, why should individual preferences be decisive as regards the right of private property? If men would only agree to share goods in common, as do the members of a religious community, they could all lead happier, more efficient and more virtuous lives. Nevertheless, the Church teaches that men have a right to individual possessions, because the likes and dislikes, the passions, ambitions and weaknesses of the average man render private property necessary for his welfare. Now the longing for political freedom, the desire of communities to deter-

mine their own governmental forms and persons, is so fundamental to human nature, so bound up with human welfare, that reason requires it to be satisfied. No such powerful considerations could have been urged on behalf of the claims of Washington had he sought imperial power.

To those of us who believe in a democracy, the foregoing argument is powerfully reenforced by the superiority of a republican form of government. We hold that an imperial rule not only would have been incompetent and ineffective, owing to popular dislike, but that it could not have provided as large opportunities for individual development and social progress. A people that strongly claims the right to determine its form of government will usually desire to embody in it a large clement of democracy. Hence the right of a self-determination is considerably strengthened by the fact that politically competent peoples will, as a rule, utilize it to establish that form of government which is peculiarly suited to develop individual initiative and capacity, and thus to promote to the utmost individual and social well-being.

What was true of the American people in 1783, is true to a greater or less extent of every people that has developed a political consciousness, and that possesses the political capacity to make provision for and maintain a fairly competent government. The very fact that they want to select their own polity, that they will be profoundly dissatisfied until they arc enabled to do so, and that the forcibly imposed government will consequently be unable to give them a beneficial administration, arc sufficient reasons to validate their right of "self-determination." Even when the alien rule has the capacity to give a more efficient government, as regards the technique of legislation and administration, this advantage may be more than neutralized by that governmental inefficiency which results from the lack of popular consent and cooperation. In such a case, a technically less efficient popular government may well produce a higher degree of efficiency in terms of adequate human welfare. Therefore, a politically conscious and moderately capable community has always the right to make its consent a necessary condition of political rule. A régime that does not have either the explicit or tacit con-

sent of the people, will lack moral justification simply because it will not be able to fulfill adequately the supreme purpose of government, the welfare of the people.

Obviously it is impossible to define in exact terms those qualifications which fit a people to choose its form of government and which give it the right to make its consent a necessary condition of morally legitimate sovereignty. We know that some peoples are clearly incapable and that some others are clearly capable of giving such authoritative consent; but between these two classes there exists a wide "twilight zone." We can, however, lay down a few important general principles. If a people has already had some experience of self-government, either entire or partial, that fact will of itself create a strong presumption in its favor. Where there is no moral certainty that the people are incompetent to make their own choice, they should have the benefit of the doubt. Even though the popularly established government should remain relatively incompetent for several years, it might, in the long run, prove more beneficial to the community than an alien rule that was more efficient technically. The republics of South America are apt illustrations of this principle. In certain rare cases an alien rule might be preferable for a time, because it was seeking primarily the welfare of the subject people, and striving honestly to fit them for self government. The Filipinos under the control of the United States are a good example.

In general, however, we must bear in mind that the art of self government is well worth learning by any people, that it must be learned mainly by intimate and painful experience rather than by artificial instruction from without or from above, and therefore that the strong desire of a people to determine their form of government goes far to outweigh the technical superiority of alien rule.

By confining our attention to the case of those communities which are in political transition, and about to obtain or establish a new government, we have been able to consider the right of self government in itself, without reference to the claims of a ruler who has been for some time in actual possession. Let us take up now the more common case of a people that already has a government, but that wishes to set up a new constitution through

the expulsion of the present ruler, or, at least, through a considerable curtailment of his powers. Does the right of the monarch cease, as soon as the people have definitely decided that they want a change? Obviously the question has no reference to those countries whose constitutions permit and authorize the people to make such changes in a regular and legal manner. What is involved is a transformation of the constitution itself by other than constitutional procedure.

For centuries the great majority of Catholic moralists have thought that when a régime degenerates into tyranny; when it is inflicting serious and long continued injury on the community; when, to quote St. Thomas Aquinas, it seeks the welfare of the tyrant rather than the welfare of the people, the latter have a right to defend themselves against this unlawful aggression, and, if necessary, to depose the tyrant. This right of resistance, of self-defence, includes the right to use physical force, to make an armed revolution, in certain conditions, namely, when legal and pacific means have proved ineffective; when there is a reasonable probability that the outcome will be satisfactory; and when the judgment concerning the tyranny of the government and the probability of successful resistance is shared by the larger and better portion of the community."

However difficult these conditions may be of accurate application to a particular case, they are all obviously necessary to render reasonable an armed revolution. They are demanded by human welfare, by the welfare of the people themselves.

Suppose, however, that the people have no grievance that amounts to tyrannical oppression and that they do not intend to oppose the existing government by force of arms. Suppose that they desire a republic because they know that this form of government is capable of giving them greater opportunities of self development and social progress. So far as the mere technique of government is concerned, and the maintenance of power, order and security, the republic will, we assume, be only slightly more efficient than the monarchy; but it will promote the welfare of the masses to a greater degree, and will make the people more contented with their political institutions. In a word, the ques-

29 Cf. Cronin, *The Science oj Ethics,* II, 542.

tion is between a tolerably good government with which the people have become dissatisfied, and a better one with which they will be satisfied. And we assume, further, that the desire for a republic is shared by a substantial majority of the people, and has survived so many obstacles and disturbing circumstances, that it represents not a temporary whim but a profound determination. In these circumstances have the people a right to bid the monarch to depart, and to use the device of passive resistance to compel his acquiescence? To put it in other terms, has his moral right to rule come to an end?

Apparently Catholic moralists would answer these questions in the negative. Even when the grievances of the people are considerably greater than we are assuming, most Catholic writers seem to think that a sufficient remedy can be found in the device of passive resistance which is designed to correct but not to expel the reigning monarch. Even Suarez did not concede to the people the right to recall authority from the monarch arbitrarily. King James I had raised, against the doctrine of Bellarmine, the objection that if the people in truth confer political authority upon the ruler, they may, at any time, withdraw it, if necessary, by armed rebellion. Suarez rejected this inference, asserting that when the people have once transferred the ruling power, they cannot licitly revoke it at will. If they have set up a hereditary monarchy, they are obliged to leave the ruling authority with the monarch and his heirs; and the succeeding generations are likewise bound by this original transfer and compact. In the opinion of Suarez, a political community is a moral person, continuing through an indefinite number of generations; consequently the acts of one generation bind all those that come afterward. Hence, a later generation can revoke the original grant of power only when the monarch violates some of the conditions expressly stated in the original compact, or when he has gravely abused his power to the serious injury of the people.[30]

This hypothesis, that all the generations of a people constitute one moral person, bound once for all by the action of the first generation in setting up a hereditary monarchy, is obviously

M Defensio Fidei Catholica, III, III, 3, 4: also De *Legibus,* III, III, 7: IX., 4.

a pure fiction. It has no basis in the nature of things. It can be defended on only two possible grounds: the welfare of the royal family, or the welfare of the people. Inasmuch as the members of the reigning house can find other ways of getting their living, their welfare is not necessarily bound up with the exercise of kingly power. Nor is political authority like private property, which the possessor has a natural right to transmit to his heirs. On the other hand, the existing generation is a better judge of the kind of government that will promote its welfare, than was the generation that originally made the grant of political power to the royal family. Therefore, the latter was incompetent to make the grant irrevocable.

Turning to later Catholic writers, we find their opinions on the right of the people to change the form of government or the ruling authorities partially stated in their discussion of a usurping ruler. They maintain that a person who has got possession of a government by force, docs not forthwith become endowed with the moral authority to govern. This is obviously correct. Any other theory would make might the determinant of right. When, however, the rightful ruler cannot be restored, the public welfare will sooner or later demand that the rule of the usurper should be regarded as legitimate. It is not reasonable nor beneficial that a people should live indefinitely under a government that is without genuine authority. Now the general teaching of recent Catholic writers seems to be that the rule of the usurper cannot become morally legitimate before the end of two or three generations. After a period of that length, the new government will possess authority by the title of prescription; for time and circumstances have made it clear that the unjustly deposed monarch will never be able to recover his political power.

Cannot the usurping government be legitimized at any time by the consent of the people? The answer of these writers is a decided negative. According to Dr. Cronin, whose view may be taken as typical, "in the case of a monarchy or an aristocracy, the people are not the authority from whom consent is to be sought; and as long as the monarch or ruling aristocracy is in existence, it is on their authority and by their consent only that legitimation can be affected. During that period, too, the people

are bound to refrain from giving their consent to the new régime, or doing anything that would directly help to consolidate the usurper's position." When, however, the fallen dynasty has shown itself utterly unable to recover its power, "we may regard the people, in default of anybody else, as a kind of residuary legatee of the dethroned monarch, with a right to choose the ruler." [6]

The people have no right to legitimize the government of the usurper, since ruling authority is not in their hands. It rests with the deposed monarch. Whence did he derive it? From his royal parents immediately; from the first person in the royal line ultimately. Whence did it come to the original king? It might have come from the people by election, from his position as patriarch, or from some other combination of facts and circumstances which rendered his exercise of political power reasonable. Whatever the particular title, source or justification of the authority exercised by the first person in a hereditary monarchy, the right to rule remains with the royal descendant until he has lost it through the long process of prescription. Until that process is completed, the authority does not lie with the people, and cannot be conferred by them upon the usurper. Such is Dr. Cronin's argument.

It is not conclusive. Nor docs the position against which it is directed depend, as he says, upon the assumption that the only title of political authority is the consent of the people. We can concede that, in the case of a certain hereditary monarchy, the original king obtained his first authority without the consent of the people, because he was the only person in the community morally and intellectually fit to administer a government; and still we can, without any violation of logic, contend that the present generation has the moral right, in some circumstances, to turn against the deposed monarch and to make legitimate the government of the usurper. Why and when have the people this right? Because the supreme end of government and the fundamental justification of every title of authority is the public welfare; as soon as this comes to depend to a substantial degree upon popular acceptance of the usurper, his rule becomes morally legitimate.

[6] *Op. cit.,* I, 533, 531.

Dr. Cronin himself says:[82] 'Tn the long run it is the welfare of the people that must be allowed to determine all such issues, and must decide all questions of right between the opposing governments." Now it is precisely this general principle that justifies the people in supporting, and authorizes them to legitimize, a usurping government any time after the preceding one has been deposed. History informs us that the attempt of a fallen monarch to regain power has not infrequently been regarded with studied and sullen enmity by the people, while the rule of the usurper has promptly obtained their deliberate adhesion and active cooperation. If the new government is at least as competent as the old, the attitude of the people becomes of itself the determining factor of their welfare. In these circumstances, the welfare of the people is bound up with their acceptance and consent; is given to the rule of the usurper, it makes that rule morally legitimate. Dr. Cronin's contention to the contrary is based on two assumptions, one of principle, the other of fact.

The first of these assumptions is that the political right of a hereditary royal house is closely akin to the right of private property. In common with the more recent Catholic writers, Dr. Cronin enlarges upon the ruling right of the deposed monarch in such terms as to convey the impression that his moral claim to the sceptre is about as strong as his claim to his house or his hat. The wrong done the ruler when he is deprived of his throne, is represented in such a way as to suggest that it is only slightly, if at all, different from that which he suffers when he is robbed of his household furniture.

To whatever extent this assumption may be latent in the minds or arguments of the Catholic writers we arc considering, the simple truth is that the governing authority of the monarch is in no sense proprietary. It is entirely fiduciary, conferred upon him not at all for his own benefit, but solely for the good of the community. When it ceases to promote the latter end, it may properly be transferred to someone else by any process that is reasonable, as the deliberate adhesion of the people to a usurping ruler who can provide at least as good a government as the one that has been overthrown.

[82] *Op. cit.,* II, 526.

The assumption of fact underlying Dr. Cronin's contention is that to concede the people the right of legitimizing the new government before the dethroned royal house has lost all hope of regaining power, would not really promote the public welfare. It is assumed that the people are constitutionally prone to sanction political changes without sufficient reason; that they are easily liable to be mistaken in their evaluation of the usurping government; and, therefore, that their consent to it would, in most cases, be given unwisely. In a word, the assumption is that this theory of the right of popular determination and choice, as between the new and the old governments, gives too much encouragement to the social forces that stir up and make unjustifiable revolutions.

The existence of this danger must be admitted by all students of political history. Whether it be so great and so pervading as to render unreasonable every immediately popular acceptance of a usurper's rule, is a question that men will answer differently. Those who look with an unfriendly eye upon the general theory of democracy, and who distrust the political capacity of the people, think that the history of revolutions furnishes sufficient reasons for denying to the people any such right or moral authority; those who believe in democracy, and who hold that moderately enlightened communities can be trusted with more political power than they have historically been permitted to exercise, see a smaller amount of social and political evil in those same revolutions, than in the governmental incompetence and injustice the people would suffer if they never exercised the claim to legitimize at will a competent but usurping régime. The Catholic writers who take the former attitude, are greatly affected by the evil results that have followed popular insurrections from the time of the French Revolution. Those of us who cling to the opposite opinion, believe that we weigh these disturbances in a more accurate balance, and with a more just regard to the good that they have involved and sometimes concealed. We think that, in the long run, the people are likely to be quite as good judges of their welfare as any fallen king.

At any rate, we are supposing a case in which the public welfare actually will be furthered through an immediate popular

recognition of the rule of the usurper. The assumption that, even in such a case, the people have no such legitimizing authority because they would sometimes abuse it, is, to say the least, not demonstrated. It is supported by no adequate basis of fact in the realm of either psychology or history. It has no more value than the assumption that no man has a right to function as king, because many monarchs have grossly abused their great power.

In passing, it is worthy of note that the theory which we are opposing was implicitly rejected by Pope Pius VII, in 1804, when he crowned Napoleon Bonaparte as Emperor of the French, during the lifetime of the brother and heir of Louis XVI. Evidently the Pontiff did not think it necessary to await the disappearance of the third generation of the legitimate house. Incidentally, Napoleon had previously obtained the formal adhesion of the French people.

To resume the argument of the last few pages: if the reasoning and assumptions of recent Catholic writers are insufficient to prove the moral incompetence of the people to legitimize the rule of a usurper, as soon as it is evidently more conducive to public welfare than that of the deposed monarch, we are undoubtedly free to hold that the people have such a right. Therefore, they have also the right to command an inefficient king to depart, and the right to replace his government by a republic or a constitutional monarchy.

Obviously the comparative inefficiency of the existing government and the probability of getting a better one, should be greater in the latter case than in the former. Stronger reasons are required to justify the expulsion of a monarch now in possession, than the rejection of one who has been already expelled, and who could regain his throne only by bloodshed.

But such reasons have existed and still exist. Suppose that the German army and people had refused to obey the mobilization order in 1914, and had made a practically unanimous demand upon the Kaiser to abdicate, in order that they might set up a republic or a truly representative constitutional monarchy. That action would have prevented a frightful war, and saved the whole world from the menace of Prussian militarism and autocracy. Suppose that every other people suffering from royal

incompetency and lust of conquest, had acted in the same way. Is it not at least probable that the evils resulting from such popular enterprises, and the abuses of the principle underlying them, would have been less disastrous than those which have followed the failure to adopt this course?

The views of recent Catholic writers on the question before us are further deducible from their discussion of the right of the people to change the political constitution. They are probably well represented by the statements of Father Meyer. In his opinion, it is morally wrong to abrogate a constitution or to make a change in its essentials, unless the process have the consent of the ruler and of all the civil classes of the community. In support of this proposition he advances the practical argument that the opposite principle would give free license to revolution, and the theoretical argument that every legitimately established constitution is based upon at least an implicit contract, formed by all the civil classes, and therefore terminable only bv the consent of all.[88]

A sufficient reply to this contention will be found in a brief examination of its implications. If a constitution can be licitly changed in its essentials only when all civil classes of the community consent, an essential modification of a monarchical constitution in the direction of democracy has rarely, if ever, been morally right in the past and can rarely, if ever, be justified in the future. Such a change means a lessening of the authority of the king or of the aristocratic element. Now, it is one of the commonplaces of history and of human nature that no privileged governing class ever willingly surrenders any of its power. If Father Meyer is right, the British people did wrong a few years ago when, despite the protest of the House of Lords, they deprived that body of some of its most important constitutional authority.

His practical argument in favor of the principle is, that unless a constitution be thus safeguarded against the popular will, "all stability of public institutions will be rendered impossible, and there will be a sort of permanent and legal right of revolution." This dire consequence does not logically follow. It is one thing

[88] *Institutiones Juris Naturalis,* II, 434-436.

to say that the people have a right sometimes to diminish to an essential degree the constitutional prerogatives of the monarch or the nobles, and another thing to assert that they may properly do so in a moment of popular passion, or without a grave reason. Obviously a change of this magnitude becomes reasonable only when it is required to promote the public welfare, or the rights of a particular class, and when the desire for it is deeply rooted in a substantial majority of the people. The curtailment of the power of the British House of Lords by popular vote in 1911, is an excellent illustration.

If the rejoinder be made that all nations do not display the restraint of the British, the obvious reply is that ever}' political principle is liable to abuse. The problem is one of comparison of opposite dangers. If the people be conceded the right to change the constitution against the wishes of the royal and aristocratic elements, they may exercise the right too freely, with bad results to social peace and order; if they are denied the right, they will frequently be compelled to endure indefinitely a considerable measure of political hardship. Father Meyer sees vividly the evil consequences of the former situation. We take the liberty of suggesting that they are not as great as those that would follow from a rigid application of his own principle. And we believe that this suggestion is supported by the verdict of history. The injuries wrought by governing classes secure from popular control has been considerably greater than those resulting from inconsiderate popular curtailment of the authority of kings or nobles.

Meyer's theoretical argument in support of his position is, that every long-established constitution rests upon either an implicit or an explicit contract among the different classes of the country. Like the irrevocable grant of authority assumed by Suarez, the hypothesis of an implicit contract binding various political classes to make no essential change in the constitution except by general agreement, is a pure fiction. Neither from history nor from ethics can the assumption be verified. An explicit contract of this sort is very rare, as Meyer himself admits; and even it could reasonably be abrogated by the people of a succeeding generation in the interest of the public, welfare. Why should a con-

tract made by a generation now in the grave, be morally binding in a purely political situation?

When we contend that the people have a right to abolish or curtail the political powers of the nobility or the monarch, we assume that a determining majority of them have, for a long time, firmly believed that such a change would promote considerably the public welfare. Their attitude represents no mere ephemeral fancy or caprice. It is based upon a matured and settled conviction. As already noted, this attitude constitutes in itself a powerful obstacle to the effectiveness of the present government, and a considerable help to the success of a new government. And we have in mind a civilized people that possess a moderate amount of political consciousness and political capacity.

It should also be kept in mind that we do not claim or concede the right to make a bloody revolution, in order to effect the desired change. The case that we are considering is not sufficiently critical to justify active and forcible resistance. The issue is not that of a good versus a tyrannical government, but of a better versus a poorer one. Therefore, we maintain that the people have merely the right to bid the relatively inefficient monarch to depart, and to enforce that demand by peaceful measures of passive resistance. To be sure, the possession of such a right by the people, implies an obligation on the part of the monarch to acquiesce and abdicate.

When we speak of the people, we mean a unified political community. They might constitute an independent sovereign State, such as Spain or Sweden; or a subject but historically distinct nation, such as Denmark or Poland. To either of these political situations, our theory is fairly applicable. But it does not fit a segment of a substantially unified nation or State. Such a division might be constituted on racial or religious lines, as the Orangemen of Northeast Ireland; or on geographical lines, as the States that seceded from our own political union more than half a century ago. Without traditions of national and political independence, these sections have not that need of a separate government which is deeply felt and tenaciously cherished by a historically complete nation. Moreover, they arc not justified in considering the matter merely from the viewpoint of their own

welfare. They are obliged to take into account the good of the country or nation of which they are an incomplete element. Secession and independence for them might cause irreparable injury to the dominant and determinant element of the nation. On the other hand, all their peculiar interests, whether of race, religion, or locality, could be amply protected and secured by an adequate measure of local autonomy. To this they have a moral right.

With these qualifications understood, we repeat now the proposition that we advanced a few pages back: the people have a right by peaceful methods to change the form and personnel of their government, specifically to curtail or abolish the powers of the monarch or the nobles, whenever they become cognizant of the fact that such action would considerably promote the public welfare.[34]

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Chapter VIII

THE END OF THE STATE

The State, or civil society, is not a voluntary or optional association, such as a trade union or a social club. It is necessary society, a society which men are morally bound to establish and to maintain. This obligation arises from the fact that without a political organization and government, men cannot adequately develop their faculties, or live right and reasonable lives. God has so made human beings that the State is necessary for their welfare. "Man's natural instinct," says Pope Leo XIII, "moves him to live in civil society, for he cannot, if dwelling apart, provide himself with the necessary requirements of life, nor procure the means of developing his mental and moral faculties."[1]

This, then, is the general end or purpose of the State, the promotion of human welfare. "The Almighty, therefore, has appointed the charge of the human race between two powers, the ecclesiastical and the civil, the one being set over divine and the other over human things." Nor is the jurisdiction of the State over "human things" exclusive and complete. There is another association, another institution, for the promotion of temporal welfare which, in its own sphere, is superior to the State in authority, and prior to it in point of time. That is the family. In the primitive age of most peoples, the family provided for many of the needs and performed many of the functions that in later stages of development have come under the care of the State. Moreover, men have a natural right to form a great variety of voluntary associations for their common temporal advantage, as, in the fields of industry, fraternal insurance, and purely "social" activities.

The State is an organization of human beings which exists for

[1] Encyclical, *The Christian Constitution of States.*

and is necessary for the welfare of human beings. While it is under reasonable obligation to give some attention to the generations yet unborn, the welfare of the men and women now living is paramount. Individuals are not mere means or instruments to the glorification of the State, but are persons having intrinsic, worth and sacrcdncss. They arc endowed with rights which may not be violated for the sake of the State. Considered apart, from the individuals composing it, the State is a mere abstraction. Considered as a majority or as a select minority of its component individuals, the State has no right, nor any reason, to disregard the claims of any section of its members, since all are of equal worth and importance. National power is a means to State efficiency, not the end for which the State exists. As regards the sovereignty of the State, it is strictly limited by the moral law, and its true end is in harmony with the moral law. Finally, any organization of the State which involves the practical disregard of individual rights and individual freedom, is quite as unreasonable as a system which formally assumes the State to be an end in itself.

To all theories which either frankly make the State an end in itself, or tend to do so by exaggerating its authority and scope, we oppose the Catholic doctrine as expressed by Pope Leo XIII, toward the close of his encyclical "On the Condition of Labor": "Civil society exists for the common good, and hence is concerned with the interests of all in general, albeit with individual interests in their due place and degree." In this statement arc two significant declarations: First, that the end of the State is not itself, either as an abstraction, or as a metaphysical entity, or as a political organization, but the welfare of the people; second, that the welfare of the people, "the common good," is not to be conceived in such a collective, or general, or organic way as to ignore the welfare of concrete human beings, individually considered. A brief analysis of the phrase, "common good," as interpreted by Catholic authorities, will enable us to see specifically and precisely what, is the true end of the State.

Taking, then, the two words, "common good," as the most concise expression of the purpose for which the State exists and functions, let us ask ourselves, first, what are the beneficial ob-

jects denoted by the term "good"? They are all the great classes of temporal goods; that is, all the things that man needs for existence and development in this life. They comprise all these orders of goods, spiritual, intellectual, moral, physical and economic; in other words, all the external goods of soul and body. Hence it is the right and duty of the State to protect and further the religious interests of the citizens; to promote within due limits their education; to protect their morals against external dangers, and to facilitate moral education; to safeguard the liberty and the bodily integrity of the citizens from undue restraint, malicious attack, and preventable accident; and to protect private property and provide the citizens with a reasonable opportunity of obtaining a livelihood and advancing their material welfare.

That all these objects are conducive to human welfare, is self-evident; that none of them can be adequately attained without the assistance of the State, is fully demonstrated by experience; that they all come within the proper scope and end of the State is the obvious conclusion.

Now these objects, spiritual, intellectual, moral, physical, and economic, are the end of the State, not under every aspect but only insofar as they are or can be made "common." While the State exists for the individual, rather than the individual for the State, it is not the business of the State to take cognizance of every individual, as such, and to provide him directly with all these goods, after the manner of the provision made by a good father for his helpless children. Were the State to attempt this it would be injuring instead of promoting the welfare of the vast majority of individuals. This is the verdict of experience. All that the State can do, therefore, is to *make these goods available.* It can bring them within reach of the individual only through general acts which aim to produce a *common* effect. It can provide common *opportunities;* the individual must take advantage of the opportunities and make them fruitful for his peculiar needs. As a rule, therefore, the State promotes the common good by general laws and institutions, not by particular benefits.

On the other hand, the common, or general, or public good should not receive a rigid or an exclusive interpretation. The

end of the State must, indeed, be conceived as common and universal, in the sense that no class nor any individual is to be positively excluded; but not every act of the State need affect all citizens in the same way, nor be directly beneficial to the whole community. As a matter of fact, few if any laws or other civil acts have precisely the same effect upon all individuals. Conspicuous examples of this fact are tariff laws, tax laws, industrial legislation of all sorts, and, indeed, the majority of all the enactments of any legislative body. Even such elementary public institutions as the police force, the fire department and the public school affect different classes of citizens differently and unequally. In the second place, acts of the State need not always benefit the community as a whole. While the State is obliged to pursue the common good of all, it is not required to make *every one* of its acts serve that end immediately and directly. While it must confer general rather than particular benefits, it often fulfills this obligation through enactments whose immediate effect is to promote the welfare of only a single class. Indeed, it is required to do this very thing if it is to attain its final end. For its final end is the welfare of all its individual members. Since its component individuals are grouped in different classes, economic and other, they necessarily have different interests. Unless these varying interests arc recognized and adequately cared for by appropriate State action, some of the classes of the community will not be justly treated by the State. In respect to these, the State will have failed to promote the good of all.

The specious objection to class legislation is based entirely upon *apriori* assumptions. It derives no support from the facts of contemporary society. Its roots are to be found in the individualistic theories that pervaded political thought when the government of the United States was established. The political thinkers of that day assumed that all men were so nearly equal in capacities and opportunities that all would benefit equally by the few laws that were required to promote the common welfare. While even then the population of the country was divided into at least two important economic classes, the agrarian and the commercial, and while these interests clashed more than once in the legisla-

tion of the time and even in the making of the Constitution, the diversity of class interests was neither so pervasive nor so sharp as it has since become; and the leaders of political thought believed that class differences and disadvantages would tend to diminish rather than increase. Thus began a misleading tradition which has in all the succeeding years stood in the way of the correct, doctrine concerning the end of the State, and for a long time prevented the enactment of necessary and humane social legislation.

If the State is to promote the common good in an equitable and adequate degree, it must consider both the good of the whole and the good of the various classes. The common interests of all the citizens can be cared for through uniform and general legislation; for example, laws for the protection of religion and morals. The varying interests of the different classes must be provided for by enactments which differ according to the different needs and deserts; for example, laws concerning industrial combinations, co-operative associations and labor organizations. To avoid all class legislation would mean discrimination in favor of certain classes, namely, those that are exceptionally powerful. These will be left free to exploit the weaker classes. Hence, in the sentence quoted above from Pope Leo XIII, the State is said to be concerned "with the individual interests in their due place and degree." Earlier in the encyclical the great Pontiff expresses the correct principle with more amplitude and precision. "Whenever the general interest, or *any particular class,* suffers or is threatened with injury which can in no other way lx; met or prevented, it is necessary for the State to intervene." The principle laid down in the italicized section of this sentence is still more specifically and emphatically stated in other passages of the same encyclical. For example: "The richer class have many ways of shielding themselves, and stand less in need of help from the State; whereas those who are badly off have no resources of their own to fall back upon, and must chiefly depend upon the assistance of the State."[2]

The *common* good means not only the good of all in general,

[8] The whole section of the encyclical on the part of the State in the reform of industrial conditions is fundamental.

or as a whole, but the good of even- class and, so far as practicable, the good of every individual. To put the matter in summary terms, the State is under obligation to promote the welfare of its citizens, as a whole, as members of families, and as members of social classes.[3]

How far the State should go in the pursuit of these objects; whether it should directly provide the various kinds of goods required by the various classes, or merely create and guarantee the opportunity of acquiring them; by what principles and rules the State should be prevented from encroaching upon the proper sphere of the individual, the Church and private associations,—are questions which concern the State's *junctions.* They will be discussed in the next two chapters.

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[3] Cf. Costa-Rossetti, *Synopsis Philosophiae Moralis,* pp. 479–195.

Chapter IX

ERRONEOUS THEORIES CONCERNING THE FUNCTIONS OF THE STATE

The ultimate end of the State in the temporal order is the public good, or public welfare. The proximate end comprises all those lawful means that contribute to the attainment of the ultimate end. They consist of political actions and institutions, proceeding from the three great departments of government; namely, the legislative, executive, and judiciary. It is these means that we have in mind when we speak of the functions of the State.

Concerning these functions political writers have advocated three different theories. Of these the first two are extreme and mutually opposed; the third occupies a middle ground. Not without some inaccuracy, the first two are commonly known, respectively, as individualistic and socialistic. The third theory has no fixed designation, although it is sometimes called the "general welfare theory."

THE INDIVIDUALISTIC THEORY

Inasmuch as the State operates through the political organization called the government, discussion of the State's functions is necessarily discussion of the functions of government. Hence the task before us is to describe, in outline, the kinds of activities which the government may properly perform in order to attain the end of the State; that is, "to promote the welfare of its citizens, as a whole, as members of families, and as members of social classes." This task can be most satisfactorily undertaken by considering successively the three theories noted above.

The individualistic theory may be defined in general terms as that which would reduce government functions to a minimum.

It frequently finds expression in the assertion, "the best government is that which governs least." It conceives government entirely, or almost entirely, in terms of restraint. Governmental acts arc thought of as restrictions upon individual liberty. Government and its operations come to be regarded as little better than necessary evils. Between this theory and anarchism the difference is one of degree rather than of kind. While the various defenders of the theory differ somewhat in their conceptions of the proper limitations of governmental action, the great majority hold that it should merely preserve order, enforce contracts, and punish crime. Hence their doctrine has been called in derision "the policeman theory of the State." A more general name is the *laissez-faire* theory, which denotes in particular its attitude toward government supervision of industry.

'The roots of the individualistic theory are partly political and economic, partly philosophical, and partly industrial. Politically it was a reaction against the excessive and harmful restrictions of individual liberty by the governments of Europe. The civil freedom of the masses was throttled in the interest of the privileged classes. Commerce and industry were hampered by a multitude of restrictions that had long outlived whatever usefulness they once possessed. The latter half of the eighteenth century witnessed a formidable reaction against these restrictions. In France it found expression in the writings of the Physiocrats and in the principles of the Revolution; in Great Britain it was championed by Adam Smith and other economists with such extraordinary success that it was translated unmodified into acts of Parliament.[1] "All systems either of preference or restraint being thus completely taken away," said Smith, "the simple and obvious system of natural liberty establishes itself of its own accord."[2] In the United States of America, the political philosophy of the day, the revolt against the petty restrictions imposed by the British government, and the natural individualism of a pioneer people inhabiting a land of exceptional opportunities,—combined to make our government from the beginning a more

*Cf. Ingram, *History of Political Ec.rmomy,* pp. 89-93; Toynbee, *Industrial Revolution,* 11-26; Hammond, *The Town Laborer,* chs. VII and X.

2 *The Wealth of Nations,* Book IV, ch. IX.

thorough exponent of the individualistic theory than those of England and France.

In the realm of philosophy, the two most influential promoters of the theory are probably Immanuel Kant and Herbert Spencer. The Kantian principle of individual rights and liberty is this: "Act externally in such a manner that the free exercise of thy will may be able to coexist with the freedom of all others, according to a universal law."[2] According to the advocates of this principle, the proper and only function of the State is to protect men in the enjoyment of their equal spheres of liberty, specifically, to safeguard men's rights of person and property against violence and fraud. As we shall see presently, the principle does not logically warrant even this measure of State activity.

The principle of individual rights and liberty laid down by Kant is substantially the same as that formulated by Herbert Spencer: "Every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man."[4] However, Spencer arrived at this formula without being aware of the similar maxim which Kant had enunciated many years before.[3] The inference regarding State functions which Spencer draws from his principle of individual rights and liberty is substantially the same as that deduced by Kant. "The greatest prosperity and multiplication of efficient individuals will occur where each is so constituted that he can fulfill the requirements of his own nature without interfering with the fulfilment of such requirements by others."[6] Hence the sole duty of the State is "to insist that these conditions shall be conformed to"; in brief, the State should not go beyond the task of "maintaining justice." By induction as well as by deduction, Spencer arrives at the conclusion that "the primary function of government is that of combining the actions of the incorporated individuals for war, while its secondary function is that of defending its component members against one another."[7]

[3] *Einleitung in die Rechtslehre,* pp. 31, 68; cf. Meyer, *Institutiones Juris Naturalis,* I, 525; II, 305.
[4] *Principles of Ethics,* II, 46.
[6] *Idem,* appendix A.
[6] *Idem,* p. 221.
[7] *Idem,* p. 207.

Both Kant and Spencer conceived the functions of the State in terms of coercion. Government has no other duty than that of protecting rights and repressing injustice. It should not go outside this province to promote the welfare of individuals or classes by positive measures of State assistance, whether in the field of religion, morals, education or industry. While very few political writers and no governments any longer consciously subscribe to the theories of these two writers, a large section of the people, educated and uneducated, is still considerably influenced by them on account of the place which they have obtained in political, philosophical, and general literature. Kant, especially, gave a strong impetus to the political and economic liberalism which was formerly very powerful, and which is still dear to the hearts of the bourgeois.

The industrial contribution to the individualistic, theory is to be found in the interests and influence of the capitalist classes. Reference has been made above to the part played by the economists in popularizing the doctrine and promoting its enactment into law in the first quarter of the nineteenth century. More powerful even than the economists was the new capitalist class which arose during the Industrial Revolution. So influential were the capitalists in shaping legislative policies at this period that the Combination Acts, passed at their dictation, "remain the most unqualified surrender of the State to the discretion of a class in the history of England."[8] "Let alone" by the government, the capitalists were enabled, through "free" contracts with the laboring population, to employ children under the age of ten in factories, to require women and children, as well as men, to toil for 12, 14, and even 16 hours per day, to injure the bodies and the health of the employees through unsafe and unsanitary work places, to pay starvation wages, and in general to exploit the workers to the utmost limit of human endurance. Since they were greatly and notoriously superior to the workers in bargaining power, they were obviously interested in having the labor contract unregulated by legal statutes. This attitude has been taken by the employing classes of every industrial nation. As regards government regulation of industry in the interest either

[8] Hammond, *op. cit.,* p. 113.

of the laborer or the consumer, they have been in great majority champions of the individualistic theory.

So much space has been given to the origins of the individualistic theory because the interest in it is now mainly historical. In the form advocated by Kant and Spencer, it has never been adopted by a modern State. Not even in the first quarter of nineteenth century England, nor in the first half of nineteenth century America, did the State confine its activities to the protection of life and property and the enforcement of contracts. There was always some regulation of industrial affairs in the interest of some class, some government operation of public utilities, *e.g.,* the post office, some public provision for education, and some State protection of public health and morals. With the exception of about half a century of reaction brought about by the political, economic, philosophical, and industrial factors above described, the policy of all nations has been out of harmony with the individualistic theory, and if the signs of our own time can be trusted this theory will command less respect twenty years from now than it commands to-day.

From the side of reason and experience the arguments against the individualistic theory are overwhelming. They are drawn in part from the nature of man, and in part from the defects of the individualistic assumptions.

The most extreme of these assumptions is that government is merely a necessary evil. Government is conceived entirely, or almost entirely, as a check upon individual liberty, and therefore as regrettable if not abnormal. Now the truth is that the State and government are as natural as human association. Men cannot live in isolation; in society they cannot live reasonable lives nor pursue self-development without the State. This is a fundamental, normal fact of human nature, as evinced by universal experience. It is a fact that the Catholic Church has always recognized and proclaimed. She teaches that the State is a necessary, not a voluntary, society, and that it is as natural to man as the family or as organized religion. The exponents of the individualistic theory proceed from a false viewpoint and a false assumption concerning the nature and needs of man in relation to the State. Were they to estimate the facts of life with-

out these prejudices, they would realize that the State is a necessary means to right living and human progress.

Their conception of governmental activity as almost entirely restrictive and coercive is false and misleading. In the first place, modern governments perform very many functions which arc not restrictive, even in form. Such are the maintenance of schools, a health service, a life saving service, fire departments, roads, parks, etc., and the operation of a great number of scientific bureaus and other centers of information and advice. None of these is a direct restraint upon the freedom of the individual. Some of them indirectly diminish the economic and professional opportunities of some persons, inasmuch as they occupy, in whole or in part, fields that would otherwise be occupied exclusively by individual citizens. To be sure, the individualist may assert that these are not legitimate functions of the State, but that contention is based upon an *apriori* theory rather than upon any direct interference with individual liberty. The *apriori* theory will be considered presently.

In the second place, a great deal of restrictive or prohibitive legislation is negative only in form. In effect it is positive, inasmuch as it increases the actual liberty and opportunity of all those persons who could not or would not exercise the liberty which the law forbids, and who would be injured through the exercise of such liberty by others. For instance, child labor legislation increases the opjXJrtunities and welfare of children; anti-monopoly laws are calculated to increase the opportunity and welfare of the majority of the population. When men denounce industrial regulations of this sort as restraints upon individual freedom, what they really demand is that one class of persons should be left free to oppress another, usually a larger, class of persons. In all such situations the real conflict of desires and interests is not between the government and the whole body of citizens, but between two classes of citizens. Hence the reasonableness of government interference with individual liberty cannot be determined by the bare, technical fact of restraint. It is to be sought in the effects which the law produces upon the rights and welfare of the various classes that make up the community.

In the third place, restrictive and prohibitive legislation rarely diminishes the actual liberty of more than a minority, generally a small minority, of the community. The law forbidding theft applies in form to all the citizens, but it actually affects only a small minority; for the great majority have no desire to steal.

The liquor prohibition law curtailed the desired liberty of as large a proportion of the population as any other restrictive statute, since a very numerous section of the community wanted to consume intoxicating drink; nevertheless, a very large number, if not the majority, attached no importance to this freedom. The latter were not practically affected by the prohibition law. Their liberty was only hypothetically, not actually, diminished. The law forbade them to do something which was outside of their desires. The repeal of the law gave them a kind of liberty that they did not regard as of any value. When we turn to the industrial field, we find a very striking difference between the hypothetical and the actual diminution of liberty. Laws which prohibit the exploitation of child labor by employers, and the imposition of extortionate prices upon consumers by a monopoly, restrict the potential or theoretical liberty of all persons, since they carry no exemption for any class. Nevertheless, the persons whose freedom is actually lessened, constitute a very small section of the population. The overwhelming majority could not or would not do the things which the law forbids. In their case the law is no restraint upon actual liberty.

In the fourth place, the curtailment of liberty is not necessarily nor always an evil thing. It is not even a lesser evil. Not infrequently it is a positive good. Individual liberty is a means, not an end. When it is directed to evil purposes, ta objects inconsistent with the true welfare of its possessor, it is a bad thing for him. When it inflicts injury upon the neighbor, it is likewise irrational. And these perversions of liberty are sufficiently frequent to require constant restraint by an adequate social agency. Such an agency is the government. While negative in form,—"thou shalt not"—its regulations are ultimately positive and constructive. It assures to men a larger measure of opportunity for right life than would be possible in its absence. The limitation of liberty is quite as normal as the exercise of liberty. Hence due

limitations imposed by the State are in no sense an evil, nor even abnormal. It must be acknowledged that the restrictions of individual liberty by many European governments in the seventeenth and eighteenth centuries were tyrannical and destructive of human welfare; but this fact does not warrant the inference that restriction itself is only a species of necessary evil.

So much for the assumptions and prejudices underlying the individualistic theory. Let us now consider its supreme political formula; namely, that government should merely prevent and punish violence and fraud and enforce contracts, or that its sole function is the protection of rights. In passing, it may be noted that the exponents of the theory are not willing to have their formula applied in its full extension. For example, the claim of the laborer to a living wage is in the present industrial system one of man's natural rights. Yet the individualist would deny that the enforcement of this right by means of minimum wage law is a proper function of government. In any case, the formula itself has no basis in reason or in experience. If the end of the State is to promote the common good, why should its benefits be restricted to one class of goods? Men need protection against injustice, indeed, but they have also a great variety of other needs. Religion, morals, education, and health, are at least as vital to human welfare as physical integrity and private property. And the inability of the individual to safeguard his welfare in respect to the former goods is frequently as obvious as in the case of his corporal and property rights. Nevertheless, the individualist would not permit the government to make adequate provision for man's welfare as regards religion, morality, education or health. Such legislation he would condemn as outside the legitimate province of the State. Surely this position is artificial and illogical.

The individualistic principle of equal freedom is likewise artificial. Moreover, it is impossible. It holds that the individual should be free to do anything that he wishes, provided that he docs not interfere with the equal freedom of others. But this principio is gratuitous and palpably false. Translated into governmental policy, it would permit adultery, fornication, the teaching and propagation of obscenity, deception, usury and all other

forms of extortion. It would provide a paradise for every species of economic oppressor. The man who desired to commit any of these crimes could logically claim immunity from governmental interference on the ground that he conceded the same liberty to everyone else. This principle would be of great advantage to men who were exceptionally vicious, exceptionally cunning, and exceptionally selfish. It would put at a disadvantage all those who did not wish to exercise this kind of individual "liberty."

Nor is this all. At first sight, the principle of equal individual liberty seems to authorize, or at least to permit, governmental repression of such crimes as theft, assault, and homicide. In reality it does nothing of the kind. For it is not based upon nor determined by *objective* considerations, such as the safety of society' or the maximum amount of human welfare. Both Kant and Spencer express the principle in subjective terms. The will of the individual is to determine the limits and the application of the principle. "So act," says Kant, "that the free use of thy liberty can coexist with the liberty of everyone else according to a universal law." In Spencer's formulation, "every man is free to do that which he wills, provided he infringes not the equal freedom of any other man." Therefore, each individual is the authoritative interpreter of the principle in his own regard. The man who steals does not violate the principle, so long as he does not ask the State to deny the same liberty to his fellows. The murderer is likewise safe from interference if he will concede to other men the right of universal homicide. As pointed out above, this principle should be peculiarly gratifying to the exceptionally vicious and exceptionally cunning; also to those possessed of exceptional physical strength. Many if not all such persons would welcome a regime of unrestrained competition in fraud and violence. With immunity from legal restraint, they would be willing to take all the risks of competing in criminality with their less "efficient" fellows.

Admirers of Kant may question this interpretation of his principle. They may claim that the phrase, "according to a universal law," is an objective limitation upon the subjective and arbitrary interpretation and exercise of individual liberty. The claim cannot be allowed. The "universal law" which Kant had in mind was

not the moral law, nor the civil law, nor the divine law. It was simply the universal law of liberty. It could be violated only by the man who refused to grant to others the liberty that he claimed for himself. Such a man would be acting according to a *particular,* or exceptional, law of liberty. But the man who was willing to concede the same liberty to others could indulge in wholesale acts of injustice without violating the Kantian principle. Nor is it relevant to object that such conduct if universalized would destroy human society; for the Kantian principle does not recognize any objective standard or consequence as the determinant of individual freedom. Each individual is authorized to apply the principle according to his own desires and conceptions, unhindered by any consideration of social consequences.

THE SOCIALIST THEORY[9]

According to the program of International Socialism, the State would assume several new and very important functions. These are mainly economic, but they also include a large extension of State control over the family and education.

The Socialist theory holds that the State should own and operate substantially all the means of production; that is, all land used for commercial and industrial purposes, all mines, all but the smallest farms, and all except the very small industrial establishments and instruments of production and distribution. The great majority of individuals engaged in agricultural, industrial, and commercial pursuits would be employees of the State. The only kinds of business, whether in town or country, owned and carried on by individuals would be such very small concerns as could be managed by one person, or at most, by one person with the assistance of one or two employees.

From both the individual and the social viewpoint this would be an undesirable extension of State functions. The individual would be dependent upon the State throughout his whole life, not merely for protection and economic opportunity, but for his occupation and his livelihood. His only source of income would be his salary, and for that he would be dependent entirely upon

[9]Cf. Hillquit-Ryan, *Socialism: Promise or Menace?* Skelton, *Socialism, A Critical Analysis.* Cathrein-Gettelmann, *Socialism.*

the State. He could not choose between that condition and the management of a business of his own. At least, such would be the lot of the vast majority. On the other hand, everything that entered into the individual's consumption would have to be bought from the State. At present the purchaser of goods can make a choice among competing dealers. If he docs not like a certain dealer or a certain kind of commodity, he can supply his wants elsewhere or otherwise. In a Socialist régime he would be compelled to select from the small number of standardized articles provided by the State. In a word, the State would be the only seller of goods as well as the only buyer of labor. Even if men obtained a better and more secure livelihood in a Socialist society than they now obtain, this advantage would not compensate them for the lack of freedom in their economic contracts, and the lack of that social power and that self-respect which are provided by private property.

The combination of political and industrial functions in the State would place the individual entirely at the mercy of bureaucrats and majorities. Human beings could not be trusted to exercise justly this tremendous power. While the people would, indeed, have the legal right and power to remove any set of officials at the elections, we must remember that "the people" is never a simple entity, having only one set of interests and acting unanimously. In political affairs, "the people" that determines policies is never more than a part of the whole population. It is at most a majority; sometimes it is only a well organized minority. A national administration that possessed the economic and political power conferred by Socialism would be much more difficult to dislodge than one possessing merely the authority conceded by our present political system. Under Socialism a government could be maintained in office indefinitely, through a combination of the workers in the principal industries, and would be able to subject the rest of the population to unlimited economic oppression.

The common good would be enormously impeded by the attempt of the State to own and manage the means of production. In the words of Pope Leo XIII, such an industrial organization would produce universal "misery and degradation." The main

reason is that the State would be unable to command either the incentives or the discipline which are necessary for efficient production. Under Socialism both the directors and the directed would be remunerated entirely by salaries. There would be no elastic and indefinite gain held out before men as a stimulus to initiative, hard work and efficiency. In the present system substantially all business men and a large proportion of those who are compensated by salaries and wages, have some reason to hope that their rewards can be increased to an indefinite extent through their own efforts. In a Socialist system this hope would all but disappear. Even though increases in salaries and wages might be appointed for those who exhibited a certain degree of productivity, the arrangement would necessarily be operated in such a rigid and routine fashion, and recognition of merit would be so slow and halting, as to stifle incentive at its source. The promptness with which efficiency is now rewarded would be almost entirely wanting.

Not only adequate incentive but effective discipline would be impossible. The great majority of men are lazy. To a great extent they are kept working through the stimulus of fear. They are afraid of losing their jobs. In a Socialist regime the directors of industry would not have sufficient power to discharge lazy and incompetent workmen, since their own positions would be finally dependent upon the votes of those under their direction. The only alternative is a militaristic organization of industry which could not long survive in a democratic State.

The Socialist program includes a large extension of governmental control over the family and education. Indeed, the majority of Socialists regard the child as belonging primarily to the State. They look with favor upon a loosening of the marriage bond, and the continuation of the marital union only so long as the two parties think they love each other. The disastrous effects upon the welfare and progress of the race which would follow State usurpation of most important parental functions, and State encouragement to a system of free love, are too obvious to require formal or detailed description. And State monopoly of education would be a most subtle and destructive assault upon individual liberty.

The distrust, of the State which underlies the individualist theory would be entirely justified if political society had an inherent tendency toward the Socialist State. Happily there exists no such tendency. Indeed, it is only when the State is prevented from exercising and developing its normal functions that the danger of perversion into Socialism can become considerable. The true and rational conception of State functions avoids the vices and the extremes of Socialism no less than of individualism. This conception will form the subject of the next chapter.

THE TOTALITARIAN SYSTEMS

The existing political regimes in Italy, Germany and Russia are all, in essence, Totalitarian. What are the qualities of a Totalitarian State? "Totalitarianism," says Professor Carlton J. H. Hayes, "monopolizes all powers and directs all activities of individuals and groups. It subordinates to itself all economic, religious, and educational institutions and policies. It levels classes and restricts or suppresses the liberty of family and person. It leaves no room for the free play of individual wills and recognizes no utility in free inquiry. On the contrary, it has a passion for making everyone conform to the will and thought of the governing party and dictator. Alike to Communists and to Fascists, the State is omniscient and infallible as well as omnipotent."

1. *Fascism.* In its political constitution, Fascism is a dictatorship, tempered by some of the appearances of popular representation. While Mussolini carries on his government with the assistance of parliament, the latter is not genuinely democratic either in its composition or in its source. In an address delivered in Perugia, August 20, 1925, Signor Alfredo Rocco, then Minister of Justice in the Italian cabinet and Dean of the Faculty of Law at the University of Padua, explored and set forth what he called the "inner essence" of Fascism. After reading the address, Mussolini congratulated its author for having "presented in a masterly way the doctrine of Fascism."[10] According to Signor

[10] An English translation of Signor Rocco's speech under the title "The Political Doctrine of Fascism," was published by the Carnegie Endowment for International Peace in the October, 1929, issue of "International Conciliation."

Rocco, ultimate political power cannot safely be entrusted to the masses: the normal control of the commonwealth should be in the hands of "a selected elite."

Is such a constitution contrary to Catholic teaching? The answer is neither easy nor simple. If the Fascist government promotes the common good to a reasonable degree, it attains the true end of the State. On the other hand, if it has been imposed by force, and if it operates without the consent of the majority or the "greater and saner part" of the community, it seems to exemplify the immoral exercise of violence. Whence do the Fascist "elite" derive the right to rule over an unwilling majority? Only two possible sources are conceivable: The inability of the community to provide or sustain any other regime which would promote adequately the common good; or the injury which the community would suffer from an attempt to overthrow the Fascist regime by force. It would be difficult to prove that the first condition is verified in present-day Italy. The second may be a fact. On the other hand, if the majority or the "greater and saner part" of the people acquiesce in the rule of a self-chosen elite, a ruling class which is tolerably efficient, there seems to be no way of proving that such a government is contrary either to Catholicism or to right reason.

More important than the political constitution of the State is its attitude toward the human beings who arc its members. In the address by Signor Rocco cited above, we are informed that Fascism regards civil society "as a succession of generations and not as a collection of individuals." The social group is "the recapitulating unity of the indefinite series of generations. . . . Individuals come into being, grow and die, followed by others, unceasingly; social unity remains always identical to itself. . . . For Fascism, society is an end, individuals the means and its whole life consists in using individuals as instruments for its social ends. . . . Individual rights are recognized only in so far as they are implied in the rights of the State." Although the Fascist government includes certain appearances of representative government, it is in reality a dictatorship. This dictatorship is to be preserved by propaganda if possible, by violence if necessary. Finally, Fascism rejects liberty of speech, of the press, of assembly and of political opposition.

All these attitudes and principles are contrary to Catholic doctrine. Catholicism holds that the State exists for the individual, rather than the individual for the State. It holds that the individual has certain natural rights which the State may not disregard. Among these rights are those of life and a reasonable amount of liberty of movement, speech, writing and assembly.

The question may be raised why these erroneous principles have not encountered explicit condemnation by the Church as they are exemplified in Italian Fascism. As a matter of fact, they have been so condemned. For example, Pope Pius XI in his allocution to the Cardinals in the month of December, 1926, made the following reference to political Fascism: "We again see a conception of the state making headway which is not a Catholic conception because it makes the state an end unto itself and citizens mere means to that end, absorbing and monopolizing everything." Probably the main reason why this doctrine of State omnipotence has not been more frequently denounced is to be found in two important facts: First, the Fascist government has not enunciated it frequently; second, it has only rarely put the doctrine into practice. The Fascist government has been content to let its totalitarian principles remain for the most part in the realm of inoperative theory. For example, it has made a concordat with the Church, thus recognizing the juridical existence of the latter.

So much for the political theory of Fascism. It also includes important economic theories and a distinctive economic structure. These features are generally described under the term "the corporative State." Through a series of laws enacted by the Fascist government in 1926, 1927 and 1928 all occupations and industries in Italy were divided into fourteen Syndicates under a Ministry of Corporations. The Syndicates comprised workers as well as employers and possessed some power of nominating candidates for the Chamber of Deputies. In 1934 these ordinances were drastically revised. The Syndicates are now subject to twenty-two Corporations under the control of the Ministry of Corporations and have no political functions. The Ministry of Corporations regulates production, prices, and other matters of

industrial policy and its orders are executed by the Corporations.

Private property is retained except in a few of the basic public utilities. Economic classes remain, as also does the opportunity to make profits. Strikes and lock-outs are forbidden and, in general, both employers and employes are minutely subjected to the State; that is, to the Ministry of Corporations. Wealth is regarded as primarily social, since the right of profit, like all rights, is regarded as derived from the State. Private property and the use of wealth are lawful only in so far as they are conducive to the public welfare.

While it would be difficult to prove that the economic institutions of Fascism directly conflict with specific principles of Catholicism, it is evident that they are not in harmony with Catholic social thought and traditions. The spirit of these is democratic and local rather than dictatorial and centralized. It was embodied in the medieval guilds and has found expression in the Encyclical of Pope Pius XI, *Quadragesimo Anno*. Although the vocational group system set forth in the Encyclical is sometimes described as corporative, this designation is misleading. The Pope himself distinguished clearly between the Fascist corporative state and his own proposed system. In *Quadragesimo Anno* he described the former as "a special syndical and corporative organization," and passed upon it the following judgment:

> We feel bound to add that to Our knowledge there are some who fear that the state is substituting itself in the place of private initiative, instead of limiting itself to necessary and sufficient help and assistance. It is feared that the new syndical and corporative institution possesses an excessively bureaucratic and political character, and that, notwithstanding the general advantages referred to above, it risks serving particular political aims rather than contributing to the initiation of a better social order.

In the field of international relations, Fascism cherishes and promotes a degree of nationalism which is incompatible with the doctrine and practice of Christian brotherhood. In his Encyclical, "On the Peace of Christ," Pope Pius XI thus stigmatizes excessive nationalism:

Patriotism—the stimulus of so many virtues and of so many noble acts of heroism when kept within the bounds of the law of Christ—becomes merely an occasion, an added incentive, to grave injustice when true love of country is debased to the condition of an extreme nationalism, when we forget that all men are our brothers and we members of the same great human family, that other nations have an equal right with us both to life and to prosperity, that it is never lawful nor even wise to dissociate morality from the affairs of practical life, that in the last analysis, it is "justice which cxalteth a nation: but sin maketh nations miserable.

As an almost necessary corollary of the doctrine of nationalism which it professes, Fascism believes in war as a normal means of promoting national welfare and national aggrandizement. The immorality of all this is obvious.

2. *Naziism*. Although the term Fascism cannot properly be applied to the political regime now established in Germany, the two systems have a good deal in common. Like Fascism, Naziism holds that all rights, personal, political, economic, religious, etc., originate with and can be modified at will by the State. Like Fascism, Naziism is in conflict with the Catholic teaching on individual rights and other relations between the State and the individual. In practice, Naziism deprives the Church of necessary' freedom of worship and freedom of education. Like Fascism, it is excessively nationalistic. Moreover, it adheres to a theory of racial superiority and racial purity which are without foundation in fact, and which have been used as a pretext for an enormous amount of injustice and uncharity toward the Jewish race. Like Fascism, Naziism does not permit the formation of voluntary political societies. It has destroyed the Center Party in Germany. Like Fascism, it does not tolerate effective trade unionism. In its treatment of both trade unions and political societies, it has violated the principle laid down by Pope Leo XIII in his Encyclical *Rerum Novarum:*

Particular societies, then, although they' exist within the State, and are each a part of the State, nevertheless cannot be prohibited by the State absolutely and as such. For to enter into "society of this kind Is the natural right of man; and the State must protect natural rights, not destroy them; and if it forbids its citizens to form associations, it contradicts the very principle of its own existence; for both they and it

exist in virtue of the same principle, viz., the natural propensity of man to live in society.

The attitude of the American Hierarchy toward the present régime in Germany was expressed at their annual meeting held in Washington in November, 1937:

> Today the sense of all religious-minded men and women throughout the world is outraged by the Satanic resourcefulness of these leaders of modern paganism and by the incredible excesses committed by them in their attempt to exterminate religion and to blot out from the minds of the German people all true knowledge and love of God.

3. *Communism.* The attitude of the Catholic Church toward Communism is clear, decisive, and long established. It is an attitude of comprehensive condemnation. Between 1924 and 1937 the present Holy Father denounced Communism in at least half a dozen Encyclicals or other productions, principally in his Encyclicals *Quadragesimo Anno* and "Atheistic Communism." In the former document, he condemned "the merciless class warfare" of Communism, its "complete abolition of private ownership," its violent methods and its monstrous inhumanity. In the Encyclical on "Atheistic Communism," which was issued March 19, 1937, Pius XI condemned the Communist doctrines which uphold materialistic evolution, which deny natural right to human personality, which regard "marriage and family as a purely artificial and civil institution," and which "recognize in the collectivity the right, or rather, unlimited discretion to draft individuals for the labor of the collectivity with no regard for their personal welfare. . . ."

The Holy Father's indictment of Soviet Communism has recently received abundant confirmation from an unexpected source. In his book, *Assignment in Utopia,* Eugene Lyons who from 1929 to 1934 was the Moscow correspondent of the United Press, who had gone to Russia as a firm believer in the Soviet system and who became disillusioned only gradually and reluctantly, declares that "the Bolsheviks were propagating a type of thinking —a disdain for human life, a contempt for truth and a glorification of group force—which was essentially Fascist and totalitarian." Two other passages arc worth quoting from the same book in this connection:

I left Russia and Europe convinced that the immediate task—for those who have the urge to participate consciously in the historical processes of their lifetime—is to defend the basic concepts of freedom, human necessities, intellectual integrity, respect for life. ... I am convinced that any philosophy of human progress which does not rest uncompromisingly on respect for life, no matter how honest its original intent is, becomes brutalized and defeats its own professed purpose.

Catholics oppose Communism not merely on the basis of authority, but also on the basis of its nefarious political and economic constitution. As a political system it is, like Fascism and Naziism, totalitarian. It holds that all individual rights of every description come from the State and can be destroyed at will by the State. It centralizes all power—executive, legislative and judicial—in one man. It accepts and acts upon the doctrine that the end justifies the means. It suppresses liberty of speech, of the press, of assembly and political opposition. It believes in violent overthrow of all bourgeois governments. Under its economic aspects, it holds that all land and sources of production belonging to individuals or associations may be violently seized without compensation. It aims at the elimination of the class struggle by eliminating all other classes than the proletariat. It substitutes for "wage slavery" under capitalism, serfdom under a Communist dictator.

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Chapter X

THE PROPER FUNCTIONS OF THE STATE

The end of the State, we have seen, is to promote the welfare of its citizens, as a whole, as members of families, and as members of social classes. Anyone who is inclined to doubt the propriety of including the second and third of these clauses, will dismiss the inclination as soon as he looks beneath formulas and fixes his attention upon realities.

The State exists and functions for the sake of human beings. It attains this end primarily by safeguarding those interests that are *common* to all the persons under its jurisdiction; for example, by resisting foreign invasion and protecting life and property. If it stops at this point it will leave unprotected not only many individual interests, but many elements of the common good, many aspects of the general welfare. To neglect the integrity of the family or the prosperity of any considerable social class, will sooner or later injure society as a whole. To take care of these interests is, indirectly at least, to promote the common good. Nor is this all. Since individual welfare is the ultimate, though not strictly the formal, object of the State, that object ought to be deliberately promoted by the State, whenever it cannot be adequately furthered by any other agency.[1] To deny this proposition is to assume that men have been unable to achieve a jxjlitical organization that is adequate to safeguard their temporal welfare. However, it is neither desirable nor practicable for the State to provide for every in-

1Cf. Cronin, *The Science of Ethics,* II, 474: "The measure of State function, therefore, is to be found in the necessities of man and the inability of the individual and the family to provide these necessities. Anything, therefore, which is necessary, whether for the individual or for society at large, and which the individual or the family is not in a position to supply, may legitimately be regarded as included in the end of the State."

dividual as such. It can promote individual welfare best by dealing with men as groups, through their most important group relationships; therefore, as members of families, and as members of social classes. When it provides for the needs that are common to members of these two fundamental forms of association, it benefits most effectively the whole number of its component individuals.

What arc the specific policies and measures by which the State can best attain the objects described in the foregoing paragraphs? To answer this question will be to describe the proper functions of the State.

Among political writers a fairly frequent classification of State functions is into necessary and optional, or essential and non-essential. The former are "such as all governments must perform in order to justify their existence. They include the maintenance of industrial peace, order, and safety, the protection of persons and property, and the preservation of external security. They are the original primary functions of the State, and all States, however rudimentary and undeveloped, attempt to perform them."[2] They may be enumerated somewhat more specifically as military, financial, and civil.[3] In the exercise of its military function, the State defends itself and its people by force against foreign aggression, and prevents and represses domestic disorder. The financial function of the State comprises the collection and expenditure of funds for the maintenance and operation of government. Regulations concerning individual rights, contracts, property, disputes, crime, and punishment, constitute the State's civil function.

The optional or unessential functions arc calculated to increase the general welfare, but they could conceivably be performed in some fashion by private agencies. They comprise public works; public education; public charity; industrial regulations, and health and safety regulations.[4] Under the head of public works are comprised: Control of coinage and currency and the conduct of banks; the postal service, telegraphs, telephones, and

[2] Garner, *An Introduction to Political Science,* p. 318.
[3] Holt, 4n *Introduction to the Study of Government,* pp. 268-281.
[4] Holt, *op. cit.,* pp. 285-305.

railroads; the maintenance of lighthouses, harbors, rivers, and roads; the conservation of natural resources, such as forests and water power, and the ownership and operation of supply plants and municipal utilities. Public education may include not only a system of schools, but museums, libraries, art galleries, and scientific bureaus, such as those concerned with the weather and with agriculture. In the exercise of the function of public charity, the State establishes asylums, hospitals, almshouses, corrective institutions, provides insurance against accidents, sickness, old age and unemployment, and makes various provisions of material relief for persons in distress. In the field of regulation, as distinguished from that of ownership, operation, or maintenance, the State supervises public safety and industry. Regulations of the former kind relate to quarantine, vaccination, medical inspection of school children and of certain businesses and professions, and protection of public morals in the matter of pictures, publications, theatres and dance halls. Industrial regulation extends to banks, commerce, business combinations, and the relations between employer and employee.

The classification of State functions as necessary and optional has the merit of presenting a comprehensive view of political experience. It enables us to see how States have interpreted their scope, and distinguished between functions that are essential and functions that are non-essential. While all fully developed States have regarded as essential the functions which are so designated in the foregoing paragraphs, not all have agreed in conceiving the so-called optional functions as of that character. Some of the optional functions have been regarded by some States as primary and essential. And the number of optional functions that have been undertaken varies greatly among the various States. The factor determining the course of the States in this matter has been mainly, if not exclusively, expediency.

A somewhat analogous classfication is used by many Catholic writers. While conforming fully with political experience, it is also based upon fundamental principles of ethics, and it illustrates the principles of logic. It is thus stated in summary form by Cathrein? The functions of the State are twofold: First, to

5 *Philosophia Moralis,* No. 545.

safeguard the juridical order, that is, to protect all rights, of individuals, families, private associations, and the Church; second, to promote the general welfare by positive means, with respect to all those goods that contribute to that end. Substantially the same classification and principle is laid down by Meyer," CasteleinJ Cronin,[8] and Lilly.' In a general way the primary functions in this classification correspond to the necessary or essential functions in the grouping made by the political writers. While the second group of functions denoted by the Catholic writers resembles the second category of the political science manuals in a general way as regards content, there is a considerable difference of principle. The secondary functions described by the political writers are said to be optional, and their optional character is determined mainly by the varying experience and practice of particular States; but the positive promotion of general welfare is regarded by the Catholic writers as *normal* and *necessary,* because required by the fundamental needs of human beings. According to the Catholic writers, the difference between the primary and secondary functions of the State is not a difference of kind but only of degree. As noted by Meyer, the primary functions are not sufficient. The State must not only safeguard rights, but promote the general good by positive measures of helpfulness.[10] This is the general principle. In carrying it out, the State may properly undertake some particular activities which are not obligatory, but only more or less expedient.

Primary Functions

The concrete activities which fall under the primary functions of the State may be summarized as follows. All natural rights must receive adequate protection. The State is obliged to safeguard the individual's rights to life, liberty, property, livelihood, good name, and spiritual and moral security. Whence it follows

[6] *Institutiones Juris Naturalis,* II, no. 317.
[7] *Philosophia Moralis et Socialis,* p. 446.
[8] *The Science of Ethics,* II, 472-479.
[9] *First Principles in Politics,* ch. IV.
[10] *Loc. cit.*

that laws must be enacted and enforced against all forms of physical assault and arbitrary restraint; against theft, robbery, and every species of fraud and extortion; against all apparently free contracts which deny the opportunity of pursuing a livelihood on reasonable terms; against calumny and detraction; and against the spiritual and moral scandal produced by false and immoral preaching, teaching, and publication.

In the individualistic theory, the first two classes of enactments are held to exhaust the functions of the State, apparently on the assumption that they cover all the individual's rights. This is a grossly inadequate conception. Reasonable opportunities of livelihood, reputation, spiritual and moral security, are all among man's primary needs. Without them he cannot develop his personality to a reasonable degree, nor live an adequate life. Therefore, they fall within the scope of his natural rights. For natural rights include all those moral powers, opportunities and immunities which the individual requires in order to attain the end of his nature, to live a reasonable life. Any arbitrary or unreasonable interference with these is a violation of the rights of the individual. Hence the unfair competition carried on by a monopoly, unreasonable boycotts, wage contracts for less than the equivalent of a decent livelihood, untrue or otherwise unjustifiable statements derogatory to a man's reputation, utterances and publications calculated to corrupt his religion or morals,—are all injurious to the individual, and are unreasonable interferences with the security and development of his personality.

All the foregoing rights should be safeguarded by the State, not only as exercised by the individual, but also as involved in the reasonable scope of associations. Hence the family, the Church and all legitimate private societies have a just claim to protection by the State in the pursuit of all their proper ends. Men have a right to pursue their welfare not only by individual effort, but through mutual association.

A corollary of State protection of rights is State determination of rights. To a very great extent the reciprocal limits of individual rights cannot be satisfactorily adjusted by the individuals themselves. This fact is most conspicuously illustrated in

connection with property rights, but it receives frequent exemplification in other sections of the juridical province.

While all the rights above described have a general claim upon the State for protection, not all of them have an actual claim to adequate protection at any given time. This is a question of prudence and expediency. What the State may normally be expected to do, is one thing; what it is here and now able to do, is quite another thing; for example, with regard to false religious teaching and scandalous moral teaching. Perhaps the most comprehensive and practical principle that can be laid down is this: The State should not attempt to protect any right beyond the point at which further efforts threaten to do more harm than good.

Secondary Functions

These can be conveniently described by following the order outlined in the paragraph which enumerated the so-called optional functions. In general, the secondary functions cover all activities that cannot be adequately carried on by private effort, whether individual or corporate.[11]

Public Works. Under this head are included all those industries and institutions which the State not merely regulates, but owns and manages. The control of coinage and currency are undoubtedly among the necessary functions of government. Almost equally necessary is the government postal service. Telegraphs, telephones, railways, water supply and lighting may in a sense be called optional functions, since the general welfare does not always require them to be operated by the State. When public operation is clearly superior to private operation, all things considered, the State undoubtedly neglects its duty of promoting the common welfare if it fails to manage these utilities. It is a necessary part of the State's functions to provide such public safeguards as fire departments, lighthouses, buoys, and beacons; to maintain such instrumentalities of communication as roads, canals, bridges, and wharves; and to conserve such natural resources as forests, water powers, and watersheds. None of these activities can be satisfactorily performed by private enterprise.

[11] Cf. Meyer, *op. cit.,* II, p. 289; Cronin, *op. cit.,* II, 474, 475.

Public Education. As the child belongs primarily to the parents, so the function of education is primarily theirs. Both these propositions are demonstrated by the facts and requirements of human welfare. In very exceptional cases only can the education and upbringing of the child be controlled and carried on as well by the State as by the parents. Nevertheless, the common welfare does require the State to take a rather important part in the work of education. It is summarized in the following excerpts from the Pastoral Letter of the American Hierarchy, issued in 1920.

As the public welfare is largely dependent upon the intelligence of the citizen, the State has a vital concern in education. This is implied in the original purpose of our government which, as set forth in the preamble to the Constitution, is "to form a more perfect union, establish juctice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

In accordance with these purposes, the State has a right to insist that its citizens shall be educated. It should encourage among the people such a love of learning that they will take the initiative and, without constraint, provide for the education of their children. Should they, through negligence or lack of means fail to do so, the State has the right to establish schools and take every other legitimate means to safeguard its vital interests against the dangers that result from ignorance. In particular, it has both the right and the duty to exclude the teaching of doctrines which aim at the subversion of law and order and therefore at the destruction of the State itself.

The State is competent to do these things because its essential function is to promote the general welfare. But on the same principle it is bound to respect and protect the rights of the citizen, and especially of the parent. So long as these rights are properly exercised, to encroach upon them is not to further the general welfare, but to put it in peril. If the function of government is to protect the liberty of the citizen, and if the aim of education is to prepare the individual for the rational use of his liberty, the State cannot rightfully or consistently make education a pretext for interfering with rights and liberties which the Creator, not the State, has conferred. Any advantage that might accrue even from a perfect system of State education would be more than offset by the wrong which the violation of parental rights would involve.

In our country, government thus far has wisely refrained from placing any other than absolutely necessary restrictions upon private initiative. The result is seen in the development of our resources, the

products of inventive genius and the magnitude of our enterprises. But our most valuable resources are the minds of our children, and for their development at least the same scope should be allowed to individual effort as is secured to our undertakings in the material order.

The spirit of our people in genera) is adverse to State monopoly, and this for the obvious reason that such an absorption of control would mean the end of freedom and initiative. The same consequence is sure to follow when the State attempts to monopolize education; and the disaster will be greater inasmuch as it will affect, not simply the worldly interests of the citizen, but also his spiritual growth and salvation.

There are other public educational institutions which can scarcely be called absolutely necessary, and yet which are so useful that they may very properly be conducted by the State. Such are museums, art galleries, libraries, zoological gardens, scientific bureaus, laboratories, and experiment stations. The services rendered by these agencies contribute much to the common welfare and they could not, as a rule, be adequately carried on by private effort.

Public Charity. The principle that the State should do only those things which cannot be done as well by private action, applies with especial force to the field of charity. In general, this principle rests upon the fundamental truth that the individual reaches a higher degree of self-development when he docs things for himself than when the State does things for him. In the province of charity this fact is illustrated with regard both to the receiver and the giver. The former is more likely to seek unnecessary assistance from the State than from an individual; the latter is more likely to infuse his charity with human sympathy than is the State; and his incentives to charitable action are diminished if the State docs too much. In both cases harm is done to individual development.

Nevertheless, the charitable functions of the State are numerous and important. In the field of prevention, it can and should use all proper and possible methods to provide that kind of social environment which renders charitable relief unnecessary. Under this head comes a large list of industrial, educational, sanitary and moral provisions, to assure people a reasonable minimum of the material conditions of living. In the field of relief, the State must often maintain institutions; subsidize pri-

vate charitable agencies; and even protect the needy outside of institutions. Unnecessary action, however, that would lead to a notable decline in charitable feeling, responsibility, and initiative among individuals should be avoided.[12]

Public Health, Safety, Morals, and Religion. The State should protect its citizens against disease, by sanitary regulations, such as those relating to quarantine, inoculation, medical inspection of school children, impure drugs, adulterated food, and the disposal of garbage. It should safeguard their physical integrity, by such measures as traffic rules, safety requirements for public conveyances, and building regulations. It should, as far as possible, provide them with a good moral environment through the regulation or repression of the liquor traffic, through the suppression of divorce, prostitution, public gambling, and indecent pictures, printed matter, theatrical productions, and places of amusement. Finally, the State is under obligation to protect and promote religion in all ways that are lawful and effective. Here we may appropriately quote the words of Pope Benedict XV:

> Let princes and rulers of the people bear this in mind and bethink themselves whether it be wise and salutary, either for public authority or for the nations themselves, to set aside the holy religion of Jesus Christ, in which that very authority may find such powerful support and defense. Let them seriously consider whether it be the part of political wisdom to exclude from the ordinance of the State and from public instruction, the teaching of the Gospel and of the Church. Only too well does experience show that when religion is banished, human authority totters to its fall. That which happened to the first of our race when he failed in his duty to God, usually happens to nations as well. Scarcely had the will in him rebelled against God when the passions arose in rebellion against the will; and likewise, when the rulers

[12] The two paragraphs headed "Public Charity" were written several years before the Great Depression which began in 1929. Consequently, they make no mention of the widespread distress which, as we now know, results from widespread unemployment, nor do they specify the necessity in such circumstances of vast expenditures for relief by the State. If our public authorities, city, county, state and federal, had not appropriated billions of dollars for this purpose since 1932, millions of Americans would have died of starvation. While the observations in these two paragraphs remain true as generalizations, they are not adequate in relation to the conditions brought about by the Great Depression.

of the people disdain the authority of God, the people in turn despise the authority of men. There remains, it is true, the usual expedient of suppressing rebellion by force; but to what effect? Force subdues the bodies of men, not their souls.[13]

All these matters are of vital importance for public welfare, and some of them are even included within the primary functions of the State, inasmuch as they involve the protection of natural rights. None of them can be adequately dealt with by private effort.

Industrial Regulation. Owing to the complexity of modem industrial conditions, this function of the State is more important than in any preceding age. Owing to its effect upon the pecuniary interests of individuals, it has been more strongly criticised than any other activity of the State. Not much opposition has been offered to State regulation of banks. All reasonable men recognize that the public must be protected through requirements concerning incorporation, minimum of capital and surplus, liability of stockholders, nature of investments, amount and kind of reserves, the issuing of notes, and public inspection and supervision.

The regulation of commerce, public utilities and manufactures, has a varied scope and may be exercised in various ways. Foreign commerce may be regulated through taxes and embargoes on imports and exports, and by other methods of restriction. The regulation of domestic commerce takes many forms: intoxicating liquors, tobacco, explosives, drugs and other commodities are subjected to a system of licensing, or special taxation, or other kinds of legal supervision; railroads are forbidden to exact more than certain maximum charges for carrying goods and passengers, and are compelled to maintain certain standards of service; and such municipal utilities as street railways and lighting concerns must submit to similar requirements. Commercial contracts which are clearly extortionate, such as loans of money at usurious rates, arc generally prohibited by law. In this matter the policy of governments is not in accord with the individualistic theory that all technically "free" contracts ought to be legally enforced. As a matter of fact, such contracts are not

[13] Encyclical, *Ad Bealistimi,* Nov. 1, 1914.

free in any fair sense. All the foregoing regulations promote the public welfare and arc evidently among the proper functions of the State.

The most important public regulation of manufactures is that which strives to prevent unfair dealing and extortion by monopolistic corporations. In some form this is a very ancient practice of the State. Many centuries ago, legislators became aware that human beings cannot be trusted to exercise monopoly power with fairness to cither competitors or consumers. Today the most enlightened governments have numerous and complex statutes to prevent and punish both these forms of injustice. Such measures are clearly justified, not only to promote the public good, but also as an exercise of the primary function of the State, namely, the protection of natural rights. They are intended to prevent and punish unjust dealing and extortion. Nevertheless, they have not adequately attained that end. Additional measures are required, to limit still further the "individual freedom" of the monopolist to treat his fellows unjustly. Legal determination of maximum prices, government regulation of supply and distribution, and State competition in the manufacturing or other business carried on by a monopolistic concern,—are the principal new methods that have been suggested. In so far as they are necessary and would prove adequate to protect the general welfare, they can undoubtedly be classed among the proper functions of the State. Since the main object is to prevent the imposition of extortionate prices upon the consumer and the receipt of excessive profits and interest by the monopoly, these and all other regulatory measures are directed against that "rapacious usury, which, although more than once condemned by the Church, is nevertheless, under a different guise but with the like injustice, still practiced by covetous and grasping men."[14]

Probably the most necessary and beneficent group of industrial regulations are those which apply to the labor contract and the conditions of labor. The principal subjects covered are wages, hours of labor, child labor, woman labor, safety and sanitation in work places, accidents, sickness, old age and unemployment.

[14] Pope Leo XIII, *On the Condition of Labor.*

As regards wages, legislation has been enacted regulating the manner and frequency of payment, and fixing minimum rates of remuneration. Underlying most of the latter measures is the theory that no wage earner should be required to accept less than the equivalent of a decent livelihood. So long as millions of workers are unable to obtain this decent minimum through their own efforts or through the benevolence of the employer, they have clearly the right to call upon the intervention of the State. In other words, the enactment of minimum wage legislation is among the State's primary as well as secondary functions. Laws prohibiting an excessively long working day, the employment of young children, the employment of women in occupations unsuited to their sex, the existence of unsafe and unsanitary work places,—are all likewise included among both the primary and the secondary functions of government. Legal provisions for the prevention and adjustment of industrial disputes, and to insure the workers against accidents, sickness, unemployment, invalidity and old age, have been made by various countries. They evidently represent a normal exercise of, at least, the secondary functions of the State.[13]

To the foregoing legal measures for the protection of labor may pertinently be applied the principle laid down by Pope Leo XIII: "Whenever the general interest, or any particular class suffers or is threatened with injury which can in no other way be met or prevented, it is the duty of the public authority to intervene." Indeed, the great Pontiff himself applied the principle quite specifically to the conditions and needs of the working class. He said: "When there is question of defending

13 Cf. Social Reconstruction Program of the Four American Bishops, in *The Church and Labor* (Macmillan). An excellent and fundamental statement of the economic functions of the State will be found in *Institutiones Juris Naturalis,* by Theodore Meyer, S.J., II, pp. 6S3-689. Uninstructed persons who think that legislation for a minimum wage and for social insurance is "socialistic" will have a better notion of Catholic social teaching after reading these paragraphs. The Social Security Act, the Fair Labor Standards Act, and a great number of other pieces of industrial legislation enacted by our federal government since 1934 are all in harmony with correct principles concerning the functions of the State. See also *The Church and Social Order, A Statement of the Archbishops and Bishops of the Administrative Board of the National Catholic Welfare Conference.*

the rights of individuals, the poor and helpless have a claim to especial consideration. The richer class have many ways of shielding themselves, and stand less in need of help from the State; whereas, those who are badly off have no resources of their own to fall back upon, and must chiefly depend upon the assistance of the State. And it is for this reason that wage-earners, who are undoubtedly among the weak and necessitous, should be specially cared for and protected by the government."[16]

Our discussion of the end and functions of the State may fittingly close with the following declaration of the great Catholic authority on law, Francisco Suarez:

"The object of civil legislation is the natural welfare of the community and of its individual members, in order that they may live in peace and justice, with a sufficiency of those goods that are necessary for physical conservation and comfort, and with those moral conditions which are required for private well-being and public prosperity."[17]

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16 Encyc., *On the Condition of Labor.*

17 *De Legibus,* l. 3, c. 11, sec. 7.

Chapter XI

JUSTICE

Justice is concerned with actions that affect our relations with other persons and institutions. A person, properly speaking, is not said to be unjust towards himself because no individual except by an act of his free will, can deprive himself of something that he has a right to. If he chooses not to exercise his right, for some particular reason, he cannot claim that his right has been violated. According to St. Thomas: "Justice is a habit whereby a man renders to each one his due by a constant and perpetual will."[1] "To render to each one his due" through free will is, therefore, the essential meaning of justice.

What is "due" a person is determined by his rights, and all human rights, in turn, are derived ultimately from the natural law.[2][3] If rights were not based on the natural law, with God as Author, there would be no juridical foundation for determining what was "due" to human beings and the whole conception and implication of justice would be left to the caprices of civil authorities. In justice, persons have *legal* rights and obligations, regardless of civil legislation. As Dr. Trunk says: "Since, therefore, right, as the proper subject of justice, implies not only equality but also strict obligation, right in the sense of 'just dues' must be defined as that which is due to another according to strict equality in virtue of an equally strict obligation—an obligation which St. Thomas calls a 'debitum legale,' a legal due or 'just dues.' "•

A right is usually defined by the moralists as *an inviolable inoral faculty or power of doing, holding, exacting, or acquiring*

1 *Summa Theologica, 2,* 2ae, Q. 58, A. 1.

2Cf. Ross, J. Elliot, *Christian Ethics,* p. 2C3.

3 Trunk, Joseph V., S.M., *A Thomistic Interpretation of Civic Right in the United States.*

something. A right is a moral power because the source of rights is the moral law and not physical power. A right is inviolable because to infringe on it in any way is a violation of the moral law.

Justice is divided into several "kinds" in the sense that there are distinct divisions or categories of human relations in which persons have rights and obligations. The usual kinds of justice enumerated in the manuals of theology are: commutative, distributive, retributive, and legal.

Commutative Justice

Commutative justice requires equality in values, or in the appreciation of the contracting parties, between what is given and what is received in exchange. It also embraces actions which affect the person, character, and possessions of the individual. Commutative justice, then, concerns the relations of individuals to individuals; it is a person to person relationship in contradistinction to the social relations of the individual to the State or other institutions. It applies not only to all transactions affecting the buying, selling, and exchange of economic goods *(commutare)* but also to matters relating to the individual's person, character, and possessions. Thus, commutative justice may be offended by a physical assault on the person of another, by injuring his reputation, or by appropriating his property. It applies to similar offenses between "moral persons" such as nations or institutions. St. Thomas states: "Distributive justice directs distributions, while commutative justice directs commutations that take place between two persons. Of these some are involuntary, some voluntary. They arc involuntary when anyone uses another man's chattel, person, or work against his will, and this may be done secretly by fraud, or openly by violence. In either case the offense may be committed against the other man's chattel or person, or against a person connected with him." *

Distributive Justice

Distributive justice may be defined as the duty incumbent on the State, conformably to its end and purpose, to secure for each

**Ibid.,* 2, 2ae. Q. 61, A. 3. Translation by the Fathers of the English Dominican Province.

individual his right to a share in the income from products he has helped to produce, observing as far as possible the proportion which equity requires, to afford him the necessary advantages and helps due him, and finally to see that the public burdens and benefits are fairly and equitably distributed. The obligations of distributive justice rest ultimately with the State. In economic relations, the employer assumes the social function of distributing income equitably to those who have contributed to the creation of the product. Because of the social character of his position in the community, the obligation of distributing justly the income from production rests immediately with the employer. If the employer, however, fails to perform his obligations, the State must take action in the interest of distributive justice. Pope Leo XIII wrote: "Among the many and grave duties of rulers who would do their best for their people, the first and chief is to act with justice—with that justice which is called in the Schools *distributive*—towards each and every class."* The State must also distribute equitably among the people, according to desert, the advantages and benefits at its command. It would be a violation of distributive justice, for example, if the State allocated excessive relief funds to one section of the country and neglected another. Likewise, in reference to burdens, the State, by virture of distributive justice, is obligated to apportion taxes fairly, in accordance with the individual's ability to pay and the exigencies of social conditions.

Retributive Justice

Retributive justice is concerned with punishment for crime. It is a phase of distributive justice in that the obligation of protecting the lives and property of the people, as far as possible, rests with the State. To this end, the State must enact laws and fix penalties, observing the principles of equality and proportion. Harsh and cruel punishment, without sufficient cause, is to be avoided. Laxity and unconcern for the public welfare, on the other hand, are equally to be condemned. Judges, as public of-

* *Rerum Novarum,* The Paulist Press, New York.

ficials, have the obligation to administer to all equal justice under the law.

Legal Justice

Legal justice is concerned with the obligations of the individual toward the State. It has a positive and a negative aspect. It requires not merely that the individual refrain from violating the just laws of the State but that he contribute, according to his ability, to the general well-being of society. Competent men in the community, for example, would have the obligation of condemning political doctrines and social movements subversive to the State. Further comment on legal justice may be found in Chapter Fifteen, "The Duties of the Citizen."

Social Justice

Prior to the appearance of *Quadragesimo Anna,* almost the only systematic discussion of social justice came from the pen of Rev. Charles Antoine, S.J., in his *Cours ¿'Économie Sociale,* published more than forty years ago. Father Antoine described social justice in substantially the same terms as the Holy Father. He declared that social justice means not merely the promotion of the common good as a unified entity, but also the common good as comprising the welfare of all society's members. One of the greatest achievements of Pope Pius XI was to give social justice a definite place in the category of virtues and to make Catholics acquainted with the concept.

Reverend André Rocaries, S.J., in an article, "La Notion de Justice Sociale," has presented perhaps the most enlightening and satisfactory discussion of the term as yet given.® At the beginning of his study, Father Rocaries notes that the expression *social justice* has only recently appeared in Pontifical documents. Pius XI was the first Pope to give it official recognition. He uses it eight times in *Quadragesimo Anno* and several times in "Atheistic Communism." Father Rocaries then asks whether the place given to the phrase by Pius XI implied progress in doc-

8 *Dossiers de faction Populaire,* October 25, 1938.

trine as well as in terminology. He answers his own question in the affirmative.

What is the *object* of *social justice* according to the thought of the Pope? Undoubtedly, it is the common good. What does the common good mean? In the Pope's answer to this question, says Father Rocaries, we have the element that is new in the Papal teaching on social justice. As usually understood, the common good signifies the good of society as a whole. This is, indeed, the primary object of social justice, but Pius XI indicates that social justice includes also the good *of all and of each.* The collective good is not sought as an end in itself but for the sake of each of the members of society. This is the second aspect of the common good. In passing, it is worthy of note that Father Antoine gave this same twofold interpretation of the common good and the corresponding twofold duties of social justice. The *material* object of social justice, says Father Rocaries, comprises goods and advantages for all classes, while its *formal* object is the production of this prosperity for the community as a whole and for each and all individuals.

Turning from the object of social justice to its subjects, that is, those who are bound by its precepts, Father Rocaries declares that they are individuals, associations and rulers, according to their opportunities, office, and functions. All these are obliged to promote the common good as a whole. Those who are charged with the duty of promoting the common good distributively are the individual members of society, also social institutions and finally the State. Father Rocaries seems to hold that the State is the most important of these three subjects or agents of social justice on behalf of the individual members of society.

How, then, does social justice, under the aspect just described, differ from distributive justice? Mainly, answers Father Rocaries, inasmuch as it binds individuals and social groups, while the obligations of distributive justice fall only ujwn the State.

The author has a long discussion of the relation of social justice to legal justice. He rejects the opinion which has been fairly common among theological writers that these two terms are identical in meaning. He maintains that legal justice covers only one of the two objects of social justice; that is, the common wcl-

fare, as of the whole community. In addition, social justice aims at promoting the well-being of each and all, particularly by a more equitable division of the wealth of this world. And it is here above all, says Father Rocaries, that social justice incontestably differs from legal justice.

How, then, would Father Rocaries define social justice? In these words: "Social justice is the virtue which governs the relations of the members with society, as such, and the relations of society with its members; and which directs social and individual activities to the general good of the whole collective body and to the good of all and each of its members."

A definition of social justice, differing slightly from Father Rocaries', might be formulated as follows: social justice is that justice which impels both individuals and public officials to promote the common good; that is, the common welfare taken distributively as well as collectively. It means not only the good of the whole community as a unified entity, but the good of all its constituent social groups.

In the concluding paragraphs of his article, Father Rocaries declares that the term *social justice* represents not merely a progress in terminology but a genuine doctrinal progress, or, if one prefers the expression, a more exact unfolding of social Catholic doctrine. Social justice places the Catholic doctrine upon a just middle ground between individualism, which ignores social solidarity, and socialism or communism, which proclaims the supremacy of society and makes a "tabula rasa" of the indestructible rights of the person. Catholic moral teaching cannot but be benefited by this doctrinal precision. It gains, moreover, by stressing the social character of human nature, and thus defining more exactly the obligations that community life imposes on society and all its members.

The place which Father Rocaries assigns to the State in conformity with his conception of social justice is very large. He makes the practice and enforcement of social justice depend to a very great extent upon the State, particularly in the realm of economics. He takes this position in evident conformity with the teaching of Popes Leo XIII and Pius XI.

In *Rerum Novarum* Pope Leo declared: "The first duty, there-

fore, of the rulers of the State should be to make sure that the laws and institutions, the general character and administration of the commonwealth, shall be such as to produce of themselves public well-being and private prosperity." In the same Encyclical, he gave his remarkable description of the functions of the State: "Whenever the general interest or any particular class suffers, or is threatened with evils, which can in no other way be met, the public authority must step in to meet them." Social justice in both senses is implicit in both these extracts.

The following excerpts from the encyclical on "Atheistic Communism," of Pius XI, exhibit the relation between social justice and the State and also one very suggestive illustration of the State's economic functions.

In reality, besides commutative justice, there is also social justice with its own set obligations, from which neither employers nor workingmen can escape. Now it is of the very essence of social justice to demand from each individual all that is necessary for the common good. But just as in the living organism it is impossible to provide for the good of the whole unless each single part and each individual member is given what it needs for the exercise of its proper functions, so it is impossible to care for the social organism and the good of society as a unit unless each single part and each individual member—that is to say, each individual man in the dignity of his human personality—is supplied with all that is necessary for the exercise of his social functions. If social justice be satisfied, the result will be an intense activity in economic life as a whole, pursued in tranquility and order. This activity will be proof of the health of the social body, just as the health of the human body is recognized in the undisturbed regularity and perfect efficiency of the whole organism. But social justice cannot be said to have been satisfied as long as workingmen are denied a salary that will enable them to secure proper sustenance for themselves and for their families; as long as they are denied the opportunity of acquiring a modest fortune and forestalling the plague of universal pauperism; as long as they cannot make suitable provision through public or private insurance for old age, for periods of illness and unemployment. (Paragraphs 51 and 52.)

It must likewise be the special care of the State to create those material conditions of life without which an orderly society cannot exist. The State must take every measure necessary to supply employment, particularly for the heads of families and for the young. To achieve this end, demanded by the pressing needs of the common welfare, the wealthy classes must be induced to assume those burdens with-

out which human society cannot be saved nor they themselves remain secure. However, measures taken by the State with this end in view ought to be of such a nature that they will really affect those who actually possess more than their share of capital resources, and who continue to accumulate them to the grievous detriment of others. (Paragraph 75.)

The general principles above quoted from Leo and Pius and the particular illustration drawn by the latter from unemployment, taken together, show that in present-day conditions, the State should be regarded as by far the most important agent and instrument of social justice.

Extracts from "The Church and Social Order"[7]

I. OWNERSHIP

20. The Church has always defended the right to own private property and also to bequeath and to inherit it. We have vindicated this right even to the point of being falsely accused of favoring the rich against the poor. The Church teaches that the right to own property is based on the natural law of which God Himself is the author. By the law of nature man must provide for himself and his family and he can fully discharge this obligation only if there exists an established system of private ownership (p. 16).

21. It is essential to remember that ownership has a two-fold aspect, the one affecting the individual, the other affecting society. To deny the individual character and aspect of ownership leads to some form of socialism or collective ownership; to deny the social character or aspect of ownership leads to selfish individualism or that form of exaggerated liberalism which repudiates duties and ends in complete irresponsibility to other persons and to the common good.

22. The two great dangers which society faces in the present state of economic organization are first, the concentration of ownership and control of wealth and secondly, its anonymous character which results from some of the existing business and corporation law, whereby responsibility toward society is greatly impaired if not completely ignored. The civil authority, in view of these dangers, must so regulate the responsibility of property that the burden of providing for the common good be equitably distributed. It must furthermore establish such conditions through legal enactment and administrative policy that wealth itself can

[7] Statement of the Archbishops and Bishops of the Administrative Board of the National Catholic Welfare Conference, February 7, 1940.

be distributed so each individual member of society may surely and justly come into possession of the material goods necessary for his own livelihood. It is not, however, the government alone which has this responsibility, as will become clear from the further considerations to be noted.

23. Pius XI states: *(Divini Redemptoris)*

> It follows from the two-fold character of ownership, which We have termed individual and social, that men must take into account in this matter not only their own advantage but also the common good. To define in detail these duties, when the need occurs and when the natural law does not do so, is the function of the government. Provided that the natural and divine law be observed, the public authority, in view of the common good, may specify more accurately what is licit and what is illicit for property owners in the use of their possessions (p. 17).

In the application of the principles of social justice, an important instrument, therefore, is governmental authority. As Pius XI asserts, the civil authority has the obligation to adjust "ownership to meet the needs of the public good," and by so doing "it acts not as an enemy, but as the friend of private owners" (p. 17).

II. PROPERTY AND LABOR

24. Manifestly if every man worked either on his own land or with his own tools and in his own business, there would be no labor problem. Self-employment however is not the characteristic of our present economic organization. With the advent of machine industry and especially with the development of mass production there has developed an intensification of the individualistic spirit, creating new problems for labor.

25. It is freely admitted that modern industry requires considerable concentration of capital, but it is not admitted that concentration of ownership and control is consequently necessary or beneficial to the common good. The concentration of capital, however, with mass employment does create a new and more impersonal relationship between capital and labor. The problem is one of providing equitably for the distribution of in-

come between those who supply capital and those who supply labor.

26. In too many instances an undue portion of the income has been claimed by those who have ownership or control of capital, whilst those on the other hand who have only their labor to invest have been forced to accept working conditions which are unreasonable and wages which are unfair. This condition arises from the fact that labor policies have been dictated by false principles in the interests of the owners or capitalists. Secondly, it arises from the fact that labor frequently has had no voice in the regulation or the adjustment of these problems. Labor can have no effective voice as long as it is unorganized. To protect its rights it must be free to bargain collectively through its own chosen representatives. If labor when unorganized is dissatisfied, the only alternative is to cease work and thus undergo the great hardships which follow unemployment.

27. To remedy the situation, it is necessary to adopt right principles for the distribution of the income of industry. These principles must be both economically sound and morally just. The principle that labor should be compensated to such extent only that it remains physically efficient and capable of reproducing itself in new generations of working men, is a vicious principle, devoid of all respect for human dignity and opposed to all sense of social responsibility. It is true that this principle was never widely held in theory, but it has been frequently applied in practice. One such application is found in the policy that labor should be compensated solely according to the principle of supply and demand. This reduces labor to the position of a commodity and makes the workingman accept the fluctuating price in a labor market irrespective of the needs of himself and family. Neither present sufficiency of income nor security for the future plays a part in determining his wage standard according to this immoral theory and practice. Such theory or practice is anti-social and anti-Christian, for it denies both social responsibility and the claims of Christian ethics and in their place substitutes the principles of selfishness and force.

28. New developments in the organization of labor under the great impetus which has been given by recent legislation and governmental policy, make it opportune to point out that the principle of force and domination is equally wrong if exercised by labor under certain conditions by means of a monopoly-control. To defend in principle or to adopt in practice the theory that the net result belongs to labor and that capital shall receive only sufficient to replace itself is an invasion of the rights of property. This is only a more subtle form of the contention that all means of production should be socialized. Clearly all such proposals disregard the contribution which the owner of property makes in the process of production and are palpably unjust.

It is not, however, the excessive claims of labor on the income from industry which constitute the most immediate problem in labor relations today, but rather the abuse of power which not infrequently results in violence, riot and disorder. Employers at times abuse their economic power by discriminating unfairly against unions, by establishing lock-outs, by importing from outside the community strike breakers who are furnished with arms, and by provoking in other ways ill feeling which precipitates violent disorder. Employees on their part allow themselves at times to be misled by men of evil principles so as to engage in the criminal use of violence both against persons and property. Leo XIII in his encyclical, *Rerum Novarum,* spares neither group in his denunciation of such immoral conduct. He calls upon the public authority to protect and defend vigorously the rights of all, forestalling preferably the rise of disorder by eliminating the economic abuse from which this disorder springs (pp. 12-24).

29. False principles generate false policies and as a consequence there grows and develops a false economic system which sins both against the true interests of human society and against the true principles of Christian morality. Pius XI insists that owners and employers may not hire working people exclusively for their own benefit and profit, nor divert all economic life to their own will, but must guard social justice, the human dignity

of labor, the social nature of economic life and the interests of the common good (p. 32).

30. The far-reaching need of social justice and its demands are seen from the following words of the Sovereign Pontiff Pope Pius XI:

> Now, not every kind of distribution of wealth and property amongst men is such that it can at all, and still less can adequately, attain the end intended by God. Wealth, therefore, which is constantly being augmented by social and economic progress, must be so distributed amongst the various individuals and classes of society that the common good of all, of which Leo XIII spoke, be thereby promoted. In other words, the good of the whole community must be safeguarded (p. 20).

III. SECURITY

31. Our present economic order rests upon the sanctity of private property. Private property, however, is not well distributed at present among the members of human society. Whilst it is dangerous to exaggerate the disproportion between those who possess adequate property and those who constitute the proletariat or the propertyless, nevertheless, it is certainly within the bounds of truth to state that the existing situation constitutes a grave social evil. Private property in the judgment of many thoughtful men tends to become less and less the characteristic note of our present society. If the majority of our citizens possess insufficient private property to be independent of a wage income for even a short period of time, then there is grave danger to the entire social fabric. Social stability rests upon this basis of individual ownership of property. There should be more of it and not less of it, if our existing economic system is to remain secure.

32. The lack of sufficient private property leads to various forms of insecurity. This insecurity not only leads to the creation of a strong social tension expressing itself in social disorder, but is also contrary to the prescriptions of Christian morality. There can be no question but that in our country we possess adequate resources both in respect to raw materials, technical or scientific

skill, and mechanical equipment sufficient to provide both a high standard of living and also comprehensive security for all classes of society. Workingmen should be made secure against unemployment, sickness, accident, old age and death. The first line of defense against these hazards should be the possession of sufficient private property to provide reasonable security. Industry therefore should provide not merely a living wage for the moment but also a saving wage for the future against sickness, old age, death, and unemployment. Individual industries alone, however, cannot in each single case achieve this objective without invoking the principle of social insurance. Some form of government subsidy granted by the entire citizenship through legislative provision seems to be a necessary part of such a program.

33. We cannot overlook the fact that an important factor making for insecurity is the "immense power and despotic economic domination which is concentrated in the hands of a few and that those few are frequently not the owners, but only the trustees and directors of invested funds, who administer them at their good pleasure" (p. 32). Pope Pius XI then singles out one group in an especial manner as exercising this domination and despotic power.

> "This power," he states, "becomes particularly irresistible when exercised by those who, because they hold and control money, are able also to govern credit and determine its allotment, for that reason supplying, so to speak, the life-blood to the entire economic body, and grasping as it were in their hands the very soul of production, so that no one dare breathe against their will" (pp. 32-33).

34. That there exists a serious problem from the standpoint of security for working men is clearly manifest from the present state of unemployment and the present huge demands on government for public relief against dire poverty. Very significantly our present Holy Father Pius XII writes in his letter addressed specifically to the American Hierarchy:

> May it also be brought about that each and every able-bodied man may receive an equal opportunity for work in order to cam the daily bread for himself and his own. We deeply lament the lot of those—and their number in the United States is large indeed—who though

robust, capable and willing, cannot have the work for which they are anxiously searching. May the wisdom of the governing powers, a far-seeing generosity on the part of the employers, together with the speedy re-establishment of more favorable conditions, effect the realization of these reasonable hopes to the advantage of all.[8]

35. We do not wish to imply that individual employers as a class are willfully responsible for this present state of insecurity but we do claim that a system which tolerates such insecurity is both economically unsound and also inconsistent with the demands of social justice and social charity. Security of the workingmen therefore as against unemployment, old age, sickness, accident and death, must be frankly accepted as a social responsibility of industry jointly with society. The distribution of the burden justly between the various groups must be determined first through mutual council and honest agreement between the employers and the employees, and secondly through the regulation of government acting in its sovereign capacity as promoter of the common good.

36. Not all responsibility rests upon government. In truth a large measure of responsibility rests upon the proper collaboration of employers and employees or of property owners and wage earners. The economic system itself and the principles which guide its executives must help to achieve security by establishing a fair distribution of income between capital and labor. It must strive to establish an equilibrium between farm income and city income. If the rate of wages (not the annual income) of the industrial worker in the city is out of balance with the rate of returns of the farmer in the country, then there is bound to be unemployment and insecurity. Hence the duty of both groups is to work for a just balance between themselves instead of encouraging selfishness and greed which defeat the interest of both, and violate the principles of morality.

37. The same can be said of the various classes of industrial labor. Here also there must be a balance between various groups both organized and unorganized. Unless this be true the eco-

[8] "To the Church in the United States" *(Sertum Laetitiae),* N. C. W. C. edition, p. 18, 1939.

nomic system cannot function smoothly and there will inevitably be unemployment, because the one class of workingmen cannot, buy the high priced products of the other class of workingmen with their limited income. If skilled laborers, who, through rigid organization, have a monopoly-control of their craft, raise their rate of hourly wages too high, they do not gain their advantage exclusively from the wealthy but from the poor also, in terms of excessive prices. Higher wages as a rule should come out of excessive profits and not out of increased prices.

38. Heartening indeed are the beginnings toward the greater security of the people that have already been made through legislative enactment and public policy. The immediate benefits of these laws to working people may be small and some modifications perhaps desirable, but it is highly gratifying that the principle upon which they rest has become a part of our national policy.

V. ESTABLISHMENT OF SOCIAL ORDER

48. It would be unreasonable to expect that an economic system which has been predicated upon false principles and which has been operative over many decades could be reorganized suddenly or with the easy gesture of hasty legislation and new administrative policy. We face a problem which requires for its solution intellectual vision, moral integrity, and persevering effort. Many leaders both in the field of management and in the field of labor must first be convinced that economic laws and moral laws are in harmony and not in conflict with one another. No one section of human society can be grievously injured without that injury reacting harmfully in the final analysis upon all other sections of society.

49. The remedy for our problems is not so simple as some would have us think. The solution is to be found in clear thinking and in a right conscience. Relying upon God's Providence we dare not be pessimistic but at the same time we frankly recognize that a full restoration to a Christian social order is a matter of steady growth and not a sudden transition.

50. There are two attitudes which represent extreme positions respecting our economic and social order. The one attitude is espoused by those who reject any and every kind of economic planning or organization. They constitute the group of extreme individualists or the so-called school of economic liberalism. They want no interference whatsoever with the individual either from the government or from the social pressure of group organizations. They will tolerate no restrictions upon individual initiative or personal enterprise. They are liberal only to the extent that they wish to be liberated from all social responsibility. They call it free enterprise but the freedom is for those who possess great resources and dominating strength rather than for the weak or those who depend simply on their own labor for their well-being.

51. They oppose all efforts to establish collective bargaining by organized labor and they resent the action of government in enacting laws which make such collective bargaining obligatory. If there is to be any social planning, they will do it themselves without the collaboration of labor, consumers or the government. They want the government to be restricted to the function of a policeman or umpire in enforcing private contracts but not to be entrusted with the responsibility of promoting justice and the common good.

52. The second group reject totally this attitude of the individualists and rush to the opposite extreme. These latter desire to socialize all resources or establish a state collectivity. Either all property, as in pure Communism, or at least all productive property as in Socialism, should be owned in their theory by the community or by the state. The state or the community thereupon will engage through its bureaus and agencies in developing an elaborate system of national economic planning. The hope, impractical as that method may be, is to make provision for the needs of all citizens so that there will be no surplus and no deficiency. This system would ignore human nature and human rights as flagrantly as the afore-mentioned group of individualists. In fact, experience indicates that where this system has been tried human beings are victimized in a manner and to an extent

even more disastrous. Persecution is the logical and inevitable result of such economic dictatorship.

53. Between these two extremes there is a "via media" completely consistent with Christian morality and with sound economic principles. It is manifestly impossible to expect good economic order if wages, prices, working conditions and the public good are left to chance or to the haphazard methods of so-called free enterprise. "Free competition, however," says Pope Pius XI, "though within certain limits is just and productive of good results, but it cannot be the ruling principle of the economic world." Economic supremacy, he continues, can still less assume this function of a true and effective guiding principle, "for this is a headstrong and vehement power, which, if it is to prove beneficial to mankind, needs to be curbed strongly and ruled with prudence" (p. 29).

54. The true remedy will be found according to the mind of Pope Pius XI in accomplishing two reforms in our social order. In the first place there must be re-established some form of guild or vocational groups which will bind men together in society according to their respective occupations, thus creating a moral unity. Secondly there must be a reform of morals and a profound renewal of the Christian spirit which must precede the social reconstruction.

55. The social organism has been dismembered and broken up into fragments each seeking its own selfish interests instead of the common good of all. Until the organic nature of society is again recognized and re-established through vocational groups or guilds, either one of two things must happen. The state must assume all responsibility, that is, become an absolute economic dictatorship, or else the individual remains helpless, defenseless and completely overpowered by those who enjoy economic supremacy.

56. Not only must the moral principles of justice and charity be recognized and accepted by members of society, but the social and economic system itself must be so organized that these principles can freely function and become truly operative. Hence

the need of a guild or corporative system which will establish sound prosperity and which respects the proper hierarchic structure of society.' Not only must employers and employees be organized singly and jointly but their organizations must be impregnated with Christian moral and social principles or else their work will be sterile or even productive of new disorders.

57. When we speak of the establishment of a right social order, we understand thereby a reform in the concept and organization of the state respecting its responsibility for public welfare; secondly, a reform in other fundamental social institutions; and thirdly, and quite emphatically, a reform or correction of morals.

"When we speak of the reform of the social order," says Pius XI, "it is principally the State we have in mind." The state cannot do all things nor may we hope for salvation from its intervention alone. In fact, the state has been encumbered with all the burdens once borne by associations now extinct. The distinctive function of the state in consequence has become submerged and its authority overwhelmed by an infinity of affairs and duties (p. 26).

58. The state, however, cannot be relegated to the position of a mere policeman or umpire. It has the responsibility of providing for the common good. On the other hand it may not and should not become totalitarian in attempting to fulfill all social functions in the way of economic planning and direction. It should leave to the smaller vocational groups the settlement of business of lesser importance. It will then be free effectively to accomplish its real function of "directing, watching, stimulating and restraining, as circumstances suggest or necessity demands" (p. 26).

59. The primary duty of the state and of all good citizens is to abolish conflict between classes with divergent interests. This may at first sight appear to be purely negative. There is, however, a positive responsibility to foster and promote harmony between the various ranks of society and that by specific means. "The aim of social legislation," says Pope Pius XI, "must therefore be the re-establishment of vocational groups" (p. 27).

[9] *Divini Redemptoris,* p. 21, par, 32, N. C. W. C. edition.

60. The remedy for the class conflict which makes the labor market an arena where the two armies are engaged in combat, is to be found precisely in the reintegration of the social body by means of vocational groups, "which bind men together not according to the position they occupy in the labor market, but according to the diverse functions which they exercise in society" (p. 27). The chief qualifications of these vocational groups or guilds, as noted by Pius XI, are that they are autonomous, embrace whole industries and professions, are federated with other constituent groups, possess the right of free organization, assembly and vote, and that they should dedicate themselves to the common good and with governmental protection and assistance function in the establishment of justice and the general welfare in economic life.

The state itself in the manner described above (paragraph 58) and the existing free organizations of economic life should prepare the way for the ideal type of vocational groups or that sane corporative economic system of which the Pope so frequently speaks, which he so ardently desired to see realized and toward which rightly conducted activities of these organizations can lead (p. 28).

61. The second reform is of equal importance; it is first in the logical order but simultaneous in the order of time. "Nowadays," states Pius XI, "the conditions of social and economic life are such that vast multitudes of men can only with great difficulty pay attention to that one thing necessary, namely, their eternal salvation" (p. 40). There grows in consequence a disorderly affection of the soul, having its source in original sin but aggravated by the present unhappy social conditions. This leads to an unquenchable thirst for riches and temporal possessions, and prompted by this greed for gain there develops a fever of speculation unrestrained by any scruple in committing the gravest injustices against others. The civil authority which might have mitigated the evil failed lamentably in the enforcement of the moral law and the spirit of Rationalism already in the ascendant accentuated the evil by giving free rein to an economic science devoid of moral principles (p. 42).

62. The remedy in the spiritual order is a frank and sincere return to the teaching of the Gospel. God must once more be recognized as the supreme end of all created activity; and all created goods as the instruments under God for the attainment of our final destiny. "Seek ye first the kingdom of God and his justice and all things else will be added unto you" (Math. VI, 33).

63. Unfortunately there has been a tendency among too many to dissociate the virtue of justice from the virtue of charity, with the result that life has been made even more selfish and heartless. Charity is no substitute for justice, but it cannot be ignored or derided without failing utterly to comprehend its meaning and its potent influence in regulating and sublimating our social relations and responsibilities. We need justice without doubt or equivocation, but we also need charity if we arc to put our lives in harmony with God's plan and promote that spirit of benevolence which will lift the burdens not only from the backs but also from the souls of men.

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Chapter XII

LIBERALISM

An artificial definiteness has been accorded to the terms "liberal" and "liberalism." Some of the critics assume that any Catholic who accepts the designation "liberal" necessarily uses the word in the sense attached to it by the critics themselves. When we consider the history of these two terms, we are surprised at this assumption. Liberalism may denote a disposition of will, an attitude of mind, or adherence to a set of opinions. Accordingly the liberal is a person who is generous, tolerant and inclined to credit with sincerity those who differ from him; or he is unprejudiced, open-minded and friendly to new ideas; or his opinions tend to magnify freedom and to diminish restraint and authority. Liberalism may exist in many fields of thought and discussion: economics, politics, governmental policy, religion, education, science, philosophy, ethical theory and practice, social conventions, *et cetera.* A person can logically and consistently be a liberal in some of these departments and a conservative or authoritarian in others. He can look upon complete and centralized authority as reasonable in some and as unreasonable in others of these spheres of thought and action. For example, he can be a liberal in politics and economics and at the same time an authoritarian in religion. Many men find no difficulty in taking a diametrically opposite position under both these heads.

One of the best known uses of the term "liberalism" is that which has for many years prevailed on the Continent of Europe and in some Latin American countries. Those who profess this variety of liberalism are almost invariably anti-clerical, which is frequently a euphemism for anti-Catholic. On its theoretical side, it denies or minimizes the authority of God and of the Church over the human intellect. On its practical side, it denies

or minimizes the authority of God and of the Church over human conduct. Both the theoretical and practical forms of Continental liberalism exhibit several degrees—from the complete denial of divine authority, doctrinal and legislative, to the rejection of Church authority outside those principles of faith and morals which enjoy the prerogative of infallibility. The fundamental principle of this kind of liberalism is absolute freedom of thought, speech, press, politics, conscience and religion. It had its modern origin in the French Revolution and exalts the "sovereignty of the people" as unrestrained and absolute. The European ecclesiastic usually has in mind this species of liberalism when he employs the terra without qualification. It has been severely condemned by several of the Popes, notably Pius IX and Leo XIII. The latter wrote condemning "naturalism" which is a form of liberalism: "The Naturalists lay down that all men have the same rights and are in *every respect* of equal and like condition; that each one is naturally free; that no one has the right to command another; that it is an act of violence to require men to obey any authority other than that which is obtained from themselves. According to this, therefore, all things belong to the free people; power is held by the command of the people, so that whenever the popular will changes, rulers may be lawfully deposed; and the source of all rights and civil duties is either in the multitude, or in the governing authority, when the latter is constituted according to the latest doctrines. It is also held that the State should be without God; that in the various forms of religion there is no reason why one should have precedence of another, and that they arc all to occupy the same place."[1]

And again, a few years later Leo XIII said of liberalism: "Authority is severed from the true and natural principle whence it derives all its efficacy for the common good; and the law determining what is right to do is at the mercy of a majority. Now this is simply a road leading to tyranny."[2]

It should be evident that this species of liberalism cannot be accepted by any Catholic who is at once loyal to his Church and

1 Encyclical, *Humanum Genus,* 1884.
2 Encyclical, *Libertas Praestantissimum,* 1888.

adequately instructed. There have, indeed, been Catholics, particularly on the Continent, who designated themselves as "Liberal Catholics," precisely in order to express their adherence to a mild form of this liberalism that we are now discussing. While accepting the authority of the Church in matters of faith and morals which had been defined *ex cathedra,* they denied the right of the Pope to impose as of obligation doctrinal declarations or disciplinar}' rules which do not enjoy infallibility. This philosophy known as "Catholic Liberalism" has, of course, been condemned by the Church.

While liberalism, in the above sense, is most objectionable and contrary to fundamental Catholic principles, nevertheless, there arc legitimate uses and meanings of the term which are perfectly in accord with the teachings of the Church. The liberalism that is referred to in the following paragraphs is morally and doctrinally acceptable.

The terms "liberal" and "liberalism" are frequently defined by their opposites. They are variously opposed to "conservative," "reactionary," "narrow-minded," "strict," "despotic," "capitalistic," "socialistic," "prohibitionist," "authority," "law," and "obligation." Extracting the essence of all these terms, we find that it may not improperly be defined as *restraint,* provided that we understand restraint as moral or authoritarian, as well as physical. The liberal opposes the conservative because he regards the latter as too much dominated by the constraint of custom or established institutions, or ancient opinions and doctrines.

Liberalism, as previously stated, may be conveniently applied to an attitude of mind, or a system of beliefs and principles. Under the former head, we think of the liberal man as tolerant, giving to others the presumption of sincerity, reasonable freedom of expression and reasonable opportunity in all the departments of life. Hence, no genuine liberal could be a member of the Ku Klux Klan. The liberal is open-minded toward proposed changes in systems and institutions, so long as they do not contradict necessary principles.

With regard to principles or opinions, liberalism calls for classification under several different heads. In political theory, the

liberal is a democrat, that is, believes in representative government, and he is open-minded toward new democratic methods and institutions, such as proportional representation and the initiative and referendum. He rejects with impartial vigor the dictatorship of a Lenin, of a Hitler, and of a Mussolini.

With regard to governmental control of the individual, the liberal believes in natural rights and in the bills of rights which form part of our state and Federal Constitutions. In his opinion, to permit a certain amount of irrational freedom of speech and printing is a lesser evil than to suppress all liberty of expression which the majority regards as unreasonable.

In the sphere of economic activities, the liberal of to-day sharply opposes the economic liberalism of the eighteenth and nineteenth centuries. According to that liberalism, government should keep its hands off industry' and permit the fullest and freest competition among all persons and classes in the pursuit of economic advantage. To that liberalism, laws for the protection of labor were quite as distasteful as protective tariffs and interferences with the free movements of capital and capitalists. The present-day liberal regards this theory and practice as one-sided and destructive of genuine liberty. By giving complete liberty to all contenders in the economic struggle, it permitted the economically strong to oppress the economically weak. By giving universal freedom from governmental restriction, it deprived the weaker classes of protection against economic restraint imposed upon them under the guise of freedom of contract. The genuine liberal opposes all forms of unreasonable restraint, economic as well as political. His liberalism comprises not merely absence of political restraint, but presence of economic opportunity. Hence, he believes in many forms of labor legislation, and such restrictions upon the economically powerful as arc necessary to prevent the exploitation of the weak. Even though actions of the latter kind are nominally free transactions and free contracts, they are abuses of freedom.

Concerning this old economic liberalism, Pius XI wrote: "In fact, the Encyclical *Rerum Novarum* completely overthrew those tottering tenets of Liberalism which had long hampered effective interference by the government. It prevailed upon the peoples

themselves to develop their social policy more intensely and on truer lines, and encouraged the élite among Catholics to give such efficacious help and assistance to rulers of the state that in legislative assemblies they were not infrequently the foremost advocates of the new policy. Furthermore, not a few recent laws dealing with social questions were originally proposed to the suffrages of the people's representatives by ecclesiastics thoroughly imbued with Leo's teaching, who afterwards with watchful care promoted and fostered their execution.

"As a result of these steady and tireless efforts, there has arisen a new branch of jurisprudence unknown to earlier times, whose aim is the energetic defense of those sacred rights of the workingman which proceed from his dignity as a man and as a Christian. These laws concern the soul, the health, the strength, the housing, workshops, wages, dangerous employments, in a word, all that concerns the wage-earners, with particular regard to women and children. Even though these regulations do not agree always and in every detail with the recommendations of Pope Leo, it is none the less certain that much which they contain is strongly suggestive of *Rerum Novarum,* to which in large measure must be attributed the improved condition of the workingmen." [3]

In education, the genuine liberal would permit all persons and classes to conduct schools and to enjoy full freedom of teaching in their schools, so long as nothing is done or taught which is contrary to the common good. On the other hand, the right-thinking liberal does not believe that any teacher in the public schools should be free to urge upon his pupils any doctrine he pleases. The claim to this kind of liberty is irrational. It would subject pupils to assaults upon their religious faith and violate the religious neutrality of the public schools. Such liberals demand the freedom to injure their fellows at the public expense.

With regard to religious doctrines in general, or the doctrines of any particular church, that person is a liberal who is inclined to enlarge freedom of belief and to restrict authority. That person is conservative who inclines to restrict freedom of belief and to extend the scope of authority. Obviously, the liberal may

3 Encyclical, *Quadragesimo Anno,* 1931.

claim a liberty of thought or interpretation which is excessive, just as the conservative may strive to impose upon himself or upon others a degree of obligation which is excessive.

A definition in a single sentence will take some such form as the following: a liberal is a tolerant person who is a democrat in politics, and who lays strong emphasis upon freedom in speech, in writing, in education, in theological opinion, in civil affairs, and in economic opportunity for the masses. To be sure, this definition would cover excessive as well as moderate liberalism. It could be protected against that danger through the insertion of the word "reasonable" before the word "freedom"; but it would probably be no more useful nor enlightening as a result of that qualification. Every liberal regards his own brand of liberalism as reasonable. Nevertheless, the definition just given does distinguish the temper of the liberal from the temper of the conservative, and that is all that can be expected from a short descriptive statement.

Attention has been called above to the complete change which has taken place in the meaning of "economic liberalism." At the middle of the nineteenth century it signified freedom of economic activities from the restraints of civil law. To-day it indicates those measures, legislative and associational, which promote opportunity for the masses as against the encroachments of economic transactions and contracts. The old economic liberalism demanded freedom from public restraint; the new demands freedom from the restraints imposed by powerful private agencies. In order to obtain a reasonable amount of such freedom, the new economic liberalism is willing to invoke the restraints of legislation. As Attorney General Robert H. Jackson has said: "Liberalism is not a particular measure or platform, but is rather an underlying attitude towards all problems and platforms. Its program is never a finished one.—The liberalism of our day is concerned with the right of men in industry to be free from unfair labor practices, to enjoy the privacy of their individual lives without the invasion of labor spies, the right collectively to bargain, the right to have some security of tenure in their jobs as against arbitrary dismissal, and the right to a place in our economy where they can apply their labor in return for

the commodities which labor produces. And we are also concerned with the right to see that the surplus of production, above what labor consumes while producing, is in a proper proportion applied to protection against unemployment and against dependent old age, against industrial accident, and against illness."[4]

Not a few Catholics assume that, because the Church is conservative in religion, it must take the conservative view in regard to changes in economic institutions and practices. To this fallacious reasoning, there are at least two strong replies: first, economic institutions do not enjoy the prerogative of infallibility, nor does mere age create an indestructible presumption in their favor; second, after all, the liberal economic views of Pope Leo's Encyclical on Labor,[5] the Bishops' Program of Social Reconstruction,[6] and the statement of the Archbishops and Bishops of the Administrative Board of the National Catholic Welfare Conference[7] are more conservative than the views and politics to which they are opposed, for they go back in spirit and essence to the Middle Ages when, under the fostering care of the Church, the masses possessed an amount of economic freedom, economic opportunity and economic control which would be immensely distasteful to present-day adherents of economic conservatism.

When all is said, however, the terms "liberal" and "conservative" are of very doubtful value. The man who boasts that he is a liberal is very often an undiscriminating radical, while the man who boasts that he is a conservative is too often an unthinking reactionary. In every department of thought and action, the essential thing is to seek truth and justice, regardless of party names and facile shibboleths.

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Chapter XIII

LAW AND LIBERTY

Extracts from the Encyclical Letter,
Libertas Praestantissimum, June 20, 1888.

By Pope Leo XIII

Human liberty necessarily stands in need of light and strength to direct its actions to good and to restrain them from evil. Without this, the freedom of our will would be our ruin. First of all there must be law; that is, a fixed rule of teaching what is to be done and what is to be left undone. This rule cannot affect the lower animals in any true sense, since they act of necessity, following their natural instinct, and cannot of themselves act in any other way. On the other hand, as w;as said above, he who is free can either act or not act, can do this or do that, as he pleases, because his judgment precedes his choice. And his judgment not only decides what is right or wrong of its own nature, but also what is practically good and therefore to be chosen, and what is practically evil and therefore to be avoided. In other words, the reason prescribes to the will what it should seek after or shun, in order to the eventual attainment of man's last end, for the sake of which all his actions ought to be performed. This ordination of reason is called law. In man's free will, therefore, or in the moral necessity of our voluntary acts being in accordance with reason, lies the very root of the necessity of law. Nothing more foolish can be uttered or conceived than the notion that because man is free by nature, he is therefore exempt from law. Were this the case, it would follow that to become free we must be deprived of reason; whereas the truth is that we are bound to submit to law pre-

cisely because we are free by our very nature. For law is the guide of man's actions; it turns him towards good by its rewards, and deters him from evil by its punishments.

Foremost in this office comes the natural law, which is written and engraved in the mind of every man; and this is nothing but our reason, commanding us to do right and forbidding sin. Nevertheless all prescriptions of human reason can have force of law only in as much as they are the voice and the interpreters of some higher power on which our reason and liberty necessarily depend. For, since the force of law consists in the imposing of obligations and the granting of rights, authority is the one and only foundation of all law'—the power, that is, of fixing duties and defining rights, as also of assigning the necessary sanctions of reward and chastisement to each and all of its commands. But all this, clearly, cannot be found in man, if, as his own supreme legislator, he is to be the rule of his own actions. It follows therefore that the law' of nature is the same thing as the eternal law, implanted in rational creatures, and inclining them to their right action and end; and can be nothing else but the eternal reason of God, the Creator and Ruler of all the world. To this rule of action and restraint of evil God has vouchsafed to give special and most suitable aids for strengthening and ordering the human will. The first and most excellent of these is the power of His divine grace, whereby the mind can be enlightened and the will wholesomely invigorated and moved to the constant pursuit of moral good, so that the use of our inborn liberty becomes at once less difficult and less dangerous. Not that the divine assistance hinders in any way the free movement of our will; just the contrary, for grace w'orks inwardly in man and in harmony with his natural inclinations, since it flows from the very Creator of his mind and will, by whom all things are moved in conformity with their nature. As the Angelic Doctor points out, it is because divine grace comes from the Author of nature, that it is so admirably adapted to be the safeguard of all natures, and to maintain the character, efficiency, and operations of each.

What has been said of the liberty of individuals is no less applicable to them when considered as bound together in civil

society. For, what reason and the natural law do for individuals, that human law, promulgated for their good, does for the citizens of States. Of the laws enacted by men, some are concerned with what is good or bad by its very nature; and they command men to follow after what is right and to shun what is wrong, adding at the same time a suitable sanction. But such laws by no means derive their origin from civil society; because just as civil society did not create human nature, so neither can it be said to be the author of the good which befits human nature, or of the evil which is contrary to it. Laws come before men live together in society, and have their origin in the natural, and consequently in the eternal law. The precepts, therefore, of the natural law, contained bodily in the laws of men, have not merely the force of human law, but they possess that higher and more august sanction which belongs to the law of nature and the eternal law. And within the sphere of this kind of laws, the duty of the civil legislator is, mainly, to keep the community in obedience by the adoption of a common discipline and by putting restraint upon refractory and viciously inclined men, so that, deterred from evil, they may turn to what is good, or at any rate may avoid causing trouble and disturbance to the State. Now there are other enactments of the civil authority which do not follow directly, but somewhat remotely, from the natural law, and decide many points which the law of nature treats only in a general and indefinite way. For instance, though nature commands all to contribute to the public peace and prosperity, still whatever belongs to the manner and circumstances, and conditions under which such service is to be rendered must be determined by the wisdom of men and not by Nature herself. It is in the constitution of these particular rules of life, suggested by reason and prudence, and put forth by competent authority, that human law, properly so called, consists, binding all citizens to work together for the attainment of the common end proposed to the community, and forbidding them to depart from this end; and in so far as human law is in conformity with the dictates of nature, leading to what is good, and deterring from evil.

From this it is manifest that the eternal law of God is the sole

standard and rule of human liberty, not only in each individual man, but also in the community and civil society which men constitute when united. Therefore, the true liberty of human society does not consist in every man doing what he pleases, for this would simply end in turmoil and confusion, and bring on the overthrow of the State; but rather in this, that through the injunctions of the civil law all may more easily conform to the prescriptions of the eternal law. Likewise, the liberty of those who are in authority does not consist in the power to lay unreasonable and capricious commands upon their subjects, which would equally be criminal and would lead to the ruin of the commonwealth; but the binding force of human laws is in this, that they are to be regarded as applications of the eternal law, and incapable of sanctioning anything which is not contained in the eternal law, as in the principle of all law. Thus St. Augustine most wisely says: "I think that you can see, at the same time, that there is nothing just and lawful in that temporal law, unless what men have gathered from this eternal law."[1] If, then, by any one in authority, something be sanctioned out of conformity with the principles of right reason, and consequently hurtful to the commonwealth, such an enactment can have no binding force of law, as being no rule of justice, but certain to lead men away from that good which is the very end of civil society.[2]

[1] *De Libero Arbitrio,* lib. i, cap. 6, n. 15.

[2] "The State, then, has a sacred claim upon our respect and loyalty. It may justly impose obligations and demand sacrifices, for the sake of the common welfare which it is established to promote. It is the means to an end, not an end in itself; and because it receives its power from God, it cannot rightfully exert that power through any act or measure that would be at variance with the divine law, or with the divine economy for man's salvation. As long as the State remains within its proper limits and really furthers the common good, it has a right to our obedience. And this obedience we are bound to render, not merely on grounds of expediency but as a conscientious duty. 'Be subject of necessity, not only for wrath but also for conscience sake.'

"The end for which the State exists and for which authority is given it, determines the limit of its powers. It must respect and protect the divinely established rights of the individual and of the family. It must safeguard the liberty of all, so that none shall encroach upon the rights of others. But it may not rightfully hinder the citizen in the discharge of his conscientious obligation, and much less in the performance of duties which he

Therefore, the nature of human liberty, however it be considered, whether in individuals or in society, whether in those in command or in those who obey, supposes the necessity of obedience to some supreme and eternal law, which is no other than the authority of God, commanding good and forbidding evil. And so far from this most just authority of God over men, diminishing, or even destroying their liberty, it protects and perfects it, for the real perfection of all creatures is found in the prosecution and attainment of their respective ends; but the supreme end to which human liberty must aspire is God.

These precepts of the truest and highest teaching, made known to us by the light of reason itself, the Church, instructed by the example and doctrine of her divine Author, has ever propagated and asserted; for she has ever made them the measure of her office and of her teaching to the Christian nations. As to morals, the laws of the Gospel not only immeasurably surpass the wisdom of the heathen, but are an invitation and an introduction to a state of holiness unknown to the ancients; and, bringing man nearer to God, they make him at once the possessor of a more perfect liberty. Thus the powerful influence of the Church has ever been manifested in the custody and protection of the civil and political liberty of the people. The enumeration of its merits in this respect does not belong to our present purpose. It is sufficient to recall the fact that slavery, that old reproach of the heathen nations, was mainly abolished by the beneficent efforts of the Church. The impartiality of law and the true brotherhood of man were first asserted by Jesus Christ; and His apostles re-echoed His voice when they declared that in future there was to be neither Jew, nor Gentile, nor Barbarian, nor Scythian, but all were brothers in Christ. So powerful, so conspicuous in this respect, is the influence of the Church, that experience abundantly testifies how savage customs are no longer possible in any land where she has once set her foot; but that gentleness speedily takes the place of cruelty, and the light of

owes to God. To all commands that would prevent him from worshipping the Creator in spirit and truth, the citizen will uphold his right by saying with the Apostles: 'We ought to obey God rather than men.'"—From the Pastoral Letter of the American Hierarchy, 1920.

truth quickly dispels the darkness of barbarism. Nor has the Church been less lavish in the benefits she has conferred on civilized nations in every age, either by resisting the tyranny of the wicked, or by protecting the innocent and helpless from injury; or finally by using her influence in the support of any form of government which commended itself to the citizens at home, because of its justice, or was feared by their enemies without, because of its power.

Moreover, the highest duty is to respect authority, and obediently to submit to just law; and by this the members of a community are effectually protected from the wrongdoing of evil men. Lawful power is from God, and whosoever resisteth authority resisteth the ordinance of God; wherefore obedience is greatly ennobled when subjected to an authority which is the most just and supreme of all. But where the power to command is wanting, or where a law is enacted contrary to reason, or to the eternal law, or to some ordinance of God, obedience is unlawful, lest, while obeying man, we become disobedient to God. Thus, an effectual barrier being opposed to tyranny, the authority in the State will not have all its own way, but the interests and rights of all will be safeguarded—the rights of individuals, of domestic society, and of all the members of the commonwealth; all being free to live according to law and right reason; and in this, as We have shown, true liberty really consists.

We must now consider briefly liberty of speech, and liberty of the Press.[3] It is hardly necessary to say that there can be no such right as this, if it be not used in moderation, and if it pass beyond the bounds and end of all true liberty. For right is a moral power which—as We have before said and must again and again repeat—it is absurd to suppose that nature has accorded indifferently to truth and falsehood, to justice and injustice. Men have a right freely and prudently to propagate throughout the State what things soever are true and honorable, so that as many as possible may possess them; but lying opinions, than which no mental plague is greater, and vices which corrupt the heart and moral life, should be diligently repressed by public authority, lest they insidiously work the ruin of the State. The

[3] See sec. 12 in Chapter XXIII.

excesses of an unbridled intellect, which unfailingly end in the oppression of the untutored multitude, are no less rightly controlled by the authority of the law than are the injuries inflicted by violence upon the weak. And this all the more surely, because by far the greater part of the community is either absolutely unable, or able only with great difficulty, to escape from illusions and deceitful subtleties, especially such as flatter the passions. If unbridled license of speech and of writing be granted to all, nothing will remain sacred and inviolate; even the highest and truest mandates of nature, justly held to be the common and noblest heritage of the human race, will not be spared. Thus, truth being gradually obscured by darkness, pernicious and manifold error, as too often happens, will easily prevail. Thus, too, license will gain what liberty loses; for liberty will ever be more free and secure, in proportion as license is kept in fuller restraint. In regard, however, to all matters of opinion which God leaves to man's free discussion, full liberty of thought and of speech is naturally within the right of every one; for such liberty never leads men to suppress the truth, but often to discover it and make it known.

A like judgment must be passed upon what is called liberty of teaching. There can be no doubt that truth alone should imbue the minds of men; for in it arc found the well-being, the end, and the perfection of every intelligent nature; and therefore nothing but truth should be taught both to the ignorant and to the educated, so as to bring knowledge to those who have it not, and to preserve it in those who possess it. For this reason it is plainly the duty of all who teach to banish error from the mind, and by sure safeguards to close the entry to all false convictions. From this it follows, as is evident, that the liberty of which We have been speaking, is greatly opposed to reason, and tends absolutely to pervert men's minds, in as much as it claims for itself the right of teaching whatever it pleases—a liberty which the State cannot grant without failing in its duty. And the more so, because the authority of teachers has great weight with their hearers, who can rarely decide for themselves as to the truth or falsehood of the instruction given to them.

Wherefore, this liberty also, in order that it may deserve the

name, must be kept within certain limits, lest the office of teaching be turned with impunity into an instrument of corruption. Now truth, which should be the only subject-matter of those who teach, is of two kinds, natural and supernatural. Of natural truths, such as the principles of nature and whatever is derived from them immediately by our reason, there is a kind of common patrimony in the human race. On this, as on a firm basis, morality, justice, religion, and the very bonds of human society rest; and to allow people to go unharmed who violate or destroy it would be most impious, most foolish, and most inhuman. But with no less religious care must we preserve that great and sacred treasure of the truths which God Himself has taught us. By many and convincing arguments, often used by defenders of Christianity, certain leading truths have been laid down: Namely, that some things have been revealed by God; that the only-begotten Son of God was made flesh, to bear witness to the truth; that a perfect society was founded by Him—the Church namely, of which He is the head, and with which He has promised to abide till the end of the world. To this society He entrusted all the truths which he had taught, in order that it might keep and guard them and with lawful authority explain them; and at the same time He commanded all nations to hear the voice of the Church, as if it were His own, threatening those who would not hear it with everlasting perdition. Thus it is manifest that man's best and surest, teacher is God, the source and principle of all truth; and the only-begotten Son, who is in the bosom of the Father, the Way, the Truth, and the Life, the true Light which enlightens every man and to whose teaching all must submit: *And they shall all be taught of God.*[4] In faith and in teaching of morality, God Himself made the Church a partaker of His divine authority, and through His heavenly gift she cannot be deceived. She is therefore the greatest and most reliable teacher of mankind, and in her dwells an inviolable right to teach them. Sustained by the truth received from her divine Founder, the Church has ever sought to fulfil holily the mission entrusted to her by God; unconquered by the difficulties on all sides surrounding her, she has never ceased to assert her liberty of teaching, and in this

[4] John vi, 45.

way the wretched superstition of Paganism being dispelled, the wide world was renewed unto Christian wisdom. Now, reason itself clearly teaches that the truths of divine revelation and those of nature cannot really be opposed to one another, and that whatever is at variance with them must necessarily be false. Therefore the divine teaching of the Church, so far from being an obstacle to the pursuit of learning and the progress of science, or in any way retarding the advance of civilization, in reality brings to them the sure guidance of shining light. And for the same reason it is of no small advantage for the perfecting of human liberty, since our Saviour Jesus Christ has said that by truth is man made free: *You shall know the truth, and the truth shall make you free.*[5] Therefore there is no reason why genuine liberty should grow indignant, or true science feel aggrieved, at having to bear the just and necessary restraint of laws by which, in the judgment of the Church and of Reason itself, human teaching has to be controlled. The Church, indeed—as facts have everywhere proved—looks chiefly and above all to the defence of the Christian faith, while careful at the same time to foster and promote every kind of human learning. For learning is in itself good, and praiseworthy, and desirable; and further, all erudition which is the outgrowth of sound reason, and in conformity with the truth of things, serves not a little to confirm what we believe on the authority of God. The Church, truly, to our great benefit, has carefully preserved the monuments of ancient wisdom; has opened everywhere homes of science, and has urged on intellectual progress by fostering most diligently the arts by which the culture of our age is so much advanced. Lastly, we must not forget that a vast field lies freely open to man's industry and genius, containing all those things which have no necessary connection with Christian faith and morals, or as to which the Church, exercising no authority, leaves the judgment of the learned free and unconstrained. From all this may be understood the nature and character of that liberty which the followers of Liberalism so eagerly advocate and proclaim. On the one hand, they demand for themselves and for the State a license which opens the way to every perversity of opinion; and on the

[5] John viii, 32.

other, they hamper the Church in divers ways, restricting her liberty within narrowest limits, although from her teaching not only is there nothing to be feared, but in every respect very much to be gained.

Another liberty is widely advocated, namely, liberty of conscience. If by this is meant that every one may, as he chooses, worship God or not, it is sufficiently refuted by the arguments already adduced. But it may also be taken to mean that every man in the State may follow the will of God and, from a consciousness of duty and free from every obstacle, obey His commands. This, indeed, is true liberty, a liberty worthy of the sons of God, which nobly maintains the dignity of man, and is stronger than all violence or wrong—a liberty which the Church has always desired and held most dear. This is the kind of liberty the apostles claimed for themselves with intrepid constancy, which the apologists of Christianity confirmed by their writings, and which the martyrs in vast numbers consecrated by their blood. And deservedly so; for this Christian liberty bears witness to the absolute and most just dominion of God over man, and to the chief and supreme duty of man towards God. It has nothing in common with a seditious and rebellious mind; and in no tittle derogates from obedience to public authority; for the right to command and to require obedience exists only so far as it is in accordance with the authority of God, and is within the measure that He has laid down. But when anything is commanded which is plainly at variance with the will of God, there is a wide departure from this divinely constituted order, and at the same time a direct conflict with divine authority; therefore it is right not to obey.

Chapter XIV

THE MORAL OBLIGATION OF CIVIL LAW

The State performs its functions by means of law. Through the direct or indirect authorization of law, taxes are collected, public money is expended, public services, such as the post office, the public schools, the department of justice, the fire department, the police department, are administered, and the various regulatory measures affecting individuals and associations are ordained and enforced. It is law that warrants and supports every civil act performed by any official in any of the three great departments of government, the executive, the legislative and the judiciary. When a public official proceeds without the authorization of law or exceeds the scope of the law, his action has no civil validity.

The authority of the State to make laws is derived from God.[1] He has endowed men with such qualities and needs that they cannot live reasonable lives without the State. Therefore, He wishes the State to exist and to function in such a way as to attain this end, to promote man's temporal welfare. It does so by means of law. Hence civil law is genuine moral law, not merely a kind of legal or physical coercion. It binds in conscience. Herein it differs from the núes of a social club. The latter do not produce moral obligation. Even though they should be disregarded to such an extent as to destroy the club, its members would suffer no vital injury. On the other hand, men are deprived of a necessary means to human life and development when there is general disobedience of the laws of the State. The moral law which binds men to live reasonable lives, obliges them to adopt one of the essential means to this end, that is, to maintain the State and to obey its laws.

xCf. Pope Leo XIII, *The Christian Constitution of States,* p. 281 of this volume.

Such is the rational basis of the doctrine laid down in Holy Scripture, and taught without variation by the Catholic Church. According to this doctrine, the civil law binds in conscience, as such; not because it includes, nor only in so far as it includes, natural, or supernatural, or ecclesiastical law.[2]

No declaration of any Church authority can be cited in favor of the contrary opinion. A few individual writers have held it, but the overwhelming majority of theologians teach that the civil law is morally binding on its own account, because of the moral authority possessed by the State.[3]

Of course, all ethically valid civil laws must be in harmony with the moral law of nature. A statute which is contrary to a precept of the natural law, has no moral force, however solemnly it may have been enacted, or formidably sanctioned, or vigorously enforced. Such an enactment is not law at all, but, as St. Thomas calls it, "a species of violence."

Civil Law Based on Natural Law

Indeed, all civil law may properly be regarded as either a reaffirmation of the natural law, or as an application of its precepts, principles or derived conclusions.[4] Of the former kind are the statutes forbidding theft, assault, and adultery. To the latter class belongs the laws which determine individual property rights and prescribe the imposition and collection of taxes, and ordinances for the regulation of traffic on streets and roads. The natural law dictates that men should acquire and use external goods with a just regard to the rights of their fellows, but it does not inform them just how this requirement is to be observed and applied in particular cases. In virtue of the natural law, men are obliged to maintain the government, but there is no specific precept requiring this end to be attained through a certain

2Cf. Bouquillon, *Theologia Moralis Fundamentalis,* no. 223.

3 The greatest authority on law among Catholic theologians, Francisco Suarez, S.J., declares that this is the "common opinion of Catholics." His own defense of the proposition is summed up in three declarations: The civil legislator makes laws as the minister of God; the legislator is required by the divine and natural law to pass laws; this power and its exercise are necessary for the common good. *De Legibus,* lib. III, cap. 21.

*Cf. Cronin, *The Science oj Ethics,* II, 599, 600.

form of taxation. We are enjoined by the natural law to refrain from inflicting physical injury upon the neighbor in our common use of the public streets, as well as in other relations, but we are not told whether the speed limit should be ten miles an hour or twenty. In all such cases, the general provisions and precepts of the natural law stand in need of specific and precise determination by the positive law. Civil statutes for this purpose derive their immediate moral authority and validity from the State itself. Their binding force cannot come directly from the natural law, since the latter is so general in its provisions that other specific determinations, for example, other property regulations and traffic regulations, might be equally in harmony with these general provisions. Natural law cannot oblige men to comply with its general provisions in a particular way, when another way would be equally efficacious. The function of prescribing one method rather than another belongs to the State. Its right to make such a prescription flows from the fact that it is the authorized and the only competent agency to determine and enforce necessary and uniform methods of carrying into effect the general principles of the natural law in all such matters. The obligation of the citizens to observe these methods and regulations is based ultimately on the natural law, but its immediate and formal basis is the State.[4]

The objection might be raised that all the foregoing instances and the reasoning that they are intended to illustrate, refer only to civil ordinances which are *necessary*. The moral obligation to obey such statutes is as clear as the obligation to maintain an effective political organization. In both cases we can trace the compelling and obligatory influence of the natural law. Its precepts require men to deal justly and charitably with one

[4] It is in this sense that St. Thomas speaks of civil law as a "participation in the eternal and natural law." Suarez draws the distinction clearly between a civil law conceived as obligatory' because and when it contains or applies a *specific precept of* the natural law, or a necessary' conclusion therefrom, and a civil law, or the whole body of civil law, conceived as obligatory because it is based on the *general principle* of the natural law which requires ordinances to be obeyed. He declares that if those who deny that the civil law binds in conscience hold to the latter instead of the former conception, the dispute is perhaps merely one of language. They agree with him in principle. *Idem, loc. di.*

another, and to make and obey whatever civil regulations are necessary to attain this end. But the case seems to be different with those civil statutes which prescribe and administer things that are merely *useful.* Government regulation of street traffic is necessary, but government ownership of railroads is not necessary. Whence comes the moral obligation upon the citizens to obey the law which forbids them to own a railroad?

The answer is that the obligation is derived ultimately from the natural law, precisely as in the case of the traffic ordinance. Just as the State has the authority to prescribe one maximum rate of speed rather than another, so it has the right to determine that goods and passengers shall be carried by the government rather than by private corporations. In both cases the end is the common welfare. In both cases the State must adopt some means to attain this end. In each case more than one means would be adequate. Some speed limit must be prescribed, but it need not be fifteen miles per hour rather than twenty. As compared with the latter, the former is merely useful, and *vice versa.* The case of the railroads is exactly parallel. They are necessary for the common welfare. They can attain this end substantially under either private or public ownership. The issue between the two methods is merely one of utility, and the State is not clearly obliged to choose one rather than the other. But it must authorize some one of the two. When it adopts government ownership, its action is morally binding on the citizens for the same reason that makes its traffic regulations morally binding. That is, it is determining a method of promoting the common good, in virtue of its authority as the only competent determinant of such matters. The obligation of the citizens to accept the determination actually made, *i.e.,* government ownership, comes immediately from the authority of the State, but ultimately from that principle of the natural law which dictates that men should support all the legitimate activities of the State.

Individual citizens may think, and their opinion may be correct, that government ownership of railroads is less useful, less conducive to the common good, than private ownership. Nevertheless, they are morally obliged to accept the former for the sake of that same common good. Their refusal to do so would

cause greater injury to the community than the continuation of and their acquiescence in the duly established arrangement. It would imply that a group of individuals may at any time reject any civil ordinance with which they do not agree. The contradiction is obvious between this position and the requirements of right reason, of the natural law, of the common good, and of individual welfare.

The sum of the matter is that every law enacted by a legitimate government, and not contrary to any provision of the natural law, whether its prescriptions are evidently necessary or merely useful, is in some degree morally binding on the citizens. The fundamental reason is the necessity, according to the divine plan, of an effectively functioning State for human welfare.

It has just been said that every genuine civil enactment is morally binding "in some degree." This phrase brings up for consideration certain modifications, or qualifications, of the general principle. It suggests these questions: Do civil laws bind under pain of mortal sin? Does their obligatory character depend upon the will of the legislator? Are some civil statutes "purely penal"? Does the validity of civil laws depend upon their acceptance by the people?

Civil Laws of Grave Obligation

To the first of these questions the answer of the great majority of Catholic writers is in the affirmative. The reason is tersely stated by Suarez: Inasmuch as civil law binds in conscience, it necessarily produces a degree of obligation proportionate to its subject matter; if the latter is of grave importance, the obligation of obeying the law will likewise be grave.[6] Generally speaking, the person who violates a civil statute which prescribes some action of great importance for the commonwealth, is guilty of mortal sin. This proposition can be logically rejected only on the assumption that no civil law can be of great importance.

Such is the obligatory force of a momentous law, considered in itself. But we are confronted with the second question raised above. Docs the obligation depend upon the will of the legis-

[6] Op. *cit.*, lib. 3, cap. 24, no. 2.

lator? It is the unanimous, or practically unanimous, teaching of Catholic authorities that the intention of creating a moral obligation is of the essence of law, so that, a prescription by legislators who positively and explicitly intended that it should not bind in conscience, would not be a true law. It would be merely a direction, a counsel, or an expression of legislative preference. If the *existence of* moral obligation depends upon the will of the legislator, the same dependence must logically be predicated of the *degree* of obligation. Hence, the general opinion among Catholic moral theologians is that the legislator has the authority to render grave laws only slightly obligatory/ That is, a law which of itself would bind under pain of mortal sin, brings upon the transgressor merely venial guilt when this is the desire and intention of the legislator.

In order that a civil law should become obligatory to a grave degree two conditions are, therefore, necessary: First, that the subject matter be of great importance; second, that the legislator should intend the law to have this effect in the forum of conscience. Either of these conditions lacking, the law binds only under pain of venial sin. If the subject matter is of slight importance the legislator cannot perform the inherently contradictory feat of making the obligation grave; if the legislator docs not wish a gravely important law to bind under pain of mortal sin it will not be obligatory in this degree.

The Intention of the Legislator

A very important question arises here concerning the form which the legislator's intention must take in order to make an obligation slight which from the nature of the subject matter would be grave. Suppose he docs not think about moral obligation at all, but merely has in mind the enactment of a law. In that case the law will bind in conscience, and the degree of the obligation will be determined by the importance of the subject matter. This is the normal effect of a true law, and it is always produced, so long as it is not positively excluded by the intention of the legislator. Suppose that the legislator explicitly

' Cf. Suarez, *op. cit.,* lib. 3, cap. 27.

desires that the law should be obligatory, but does not think about the degree of obligation. As in the former case, the obligation will be determined by the subject matter. If the latter is gravely important the law will be gravely obligatory. Therefore, a civil law of great importance always binds under pain of mortal sin, unless the legislator forms a positive intention to the contrary. A merely negative attitude toward the obligation will have no effect upon the obligation.[8]

The opponents of the doctrine that the legislator can render slight the obligation of a grave law, contend that the degree of binding force carried by a civil law depends exclusively upon the subject matter. The legislator's power is merely that of making or not making the statute. This argument would lead logically to the conclusion that the existence of any obligation is entirely independent of the will of the legislator. Should the members of a legislative body explicitly will that their enactments should not be binding in conscience this reservation would be without effect. Suarez declares that such an enactment is not a true law; but this seems to be mostly a question of language. Modern civil laws dealing with gravely important matters always have the effect of binding under pain of mortal sin.

The doctrine that the moral obligation of civil law depends to some extent upon the intention of the legislator, is sometimes made the basis of an extraordinary view of modem civil legislation. It is nothing less than the conclusion that the ordinances of practically all modern legislative bodies have no binding force in conscience. Laws do not bind in conscience unless the legislator intends them so to bind; now contemporary lawmakers cannot have such an intention since they do not believe in the existence of genuine moral obligation. Such is the argument. Tanquerey rejects it on the ground that whatever may be their general and theoretical attitude toward the reality of moral obligation, modern legislators do desire their enactments to have the utmost possible force and authority; hence they *implicitly* intend them to be morally binding.[9] Bouquillon takes a similar

[8] Cf. Suarez, *loc. cit.*

[9] *Theologia Moralis Fundamentalis,* no. 343.

position, declaring that the legislator need not expressly intend to impose an obligation in conscience, that it is sufficient for him to have the intention of issuing a genuine command.[10] Lehmkuhl holds the same view as Tanquerey and Bouquillon, and points out that if explicit intention to bind the conscience were indispensable, the laws enacted by Pagan rulers would be without obligatory force, which is surely contrary to the teaching of Holy Scripture.[11] Suarez declares that the design of the legislator to make a true law suffices, and that the formal intention to bind in conscience is not necessary. He notes that legislators, particularly unbelievers, rarely advert to the question of moral obligation.[12][13] Indeed, it seems to be the general opinion of the moral theologians that an implicit intention suffices; that is, the intention that the enactment should have all the moral authoriy which attaches to a genuine law.

This conclusion seems to be entirely consistent with the "necessity of intention" doctrine, as regards two classes of lawmakers who have no explicit desire to bind in conscience; namely, those who believe that civil law is morally obligatory but do not advert to this fact at the moment of legislating, and those who theoretically disbelieve in genuine moral obligation, but who are willing that if perchance it does exist it should attach to their ordinances. In the minds of both these classes, there is inherent a true implicit intention to make the law binding in conscience.

As regards those lawmakers who are firmly persuaded that civil laws are not obligatory in the proper sense, for example, those who, with the English jurist, John Austin, reduce the moral obligation of legal statutes to the evil chance of incurring the penalty for violation,—it is not clear that there exists even an implicit intention to produce moral obligation.[18] Tanquerey contends for the reality of such an intention on the ground that the legislator desires his laws to exercise all possible compelling force upon the will of the citizens, and therefore is quite willing that the latter should feel bound in conscience. Nevertheless, this is not

[10] *Theoloffia Moralis Fundamentalis,* no. 223.
[11] *Theoloffia ¿Moralis,* I, no. 211.
[12] *Op. ait.,* lib. 3, cap. 27, no. 7.
[13] Cf. Slater, *Questions of Moral Theology,* pp. 279-2S8.

an implicit intention to impose *objective* moral obligation. It does not recognize the objective bond which is the essence of genuine obligation, the bond between the will of the law giver and the will of the law receiver. The only thing covered by such an intention is the state of mind of the citizen. That this should be affected by a persuasion of obligation, the lawmaker is perfectly willing; that the objective moral bond constituting obligation should extend from his will to the will of the citizen, the lawmaker has not even an implicit intention, for he totally rejects the possibility of such a bond. His intention comprises only a subjective condition, not an objective relation. It is hard to see how such legislators can have even an implicit intention, cither to make a true law, or to impose moral obligation.

As a matter of fact, it is very doubtful that many contemporary legislators deny to civil laws the possibility of moral obligation in the absolute and comprehensive manner supposed in the preceding paragraph. Probably the great majority of them accept, at least in some vague way, the existence, or at any rate, the possibility of a juristic moral bond between law giver and law receiver. This is a sufficient basis for an implicit intention to bind in conscience. Therefore, the general opinion of moral theologians that modern civil laws bind in conscience, is consistent with their teaching that this moral force is in some degree dependent upon the will of the legislator. To be sure, the case for the moral obligation of contemporary laws becomes clearer and simpler if we accept the theory that their obligatory character is independent of the legislator's will and is inherent in the laws themselves.

Purely Penal Laws

The third question raised above concerns those laws which jurists and theologians call "purely penal," or "merely penal," or "disjunctive." They are defined as laws which oblige the citizen cither to obey them or to accept the penalty appointed for their violation. The obligation is not absolute, but conditional. If the citizen is ready to submit to the penalty he can licitly disobey the provisions of the law. Generally speaking, however, he is not bound in conscience to undergo the penalty until it has

been formally imposed by the court. He is not obliged to give himself up, nor to forego his civil right of legal defence.

The great majority of moral theologians hold that the legislator has authority to enact laws of this sort. In the first place, it is contended that the object of the law and the common good may sometimes be more effectively promoted by a statute which leaves the citizen free to disobey the law' and become morally liable to the penalty, than by one which gives no such choice but entails moral guilt every time it is violated. Such are laws which men transgress with uncommon frequency, but whose object can be adequately attained through the infliction of penalties upon their violators. A purely penal law is in some sense a concession to human weakness. The second reason given by the theologians to support the proposition under consideration is the legislator's pow'er over the obligatory character of his enactments. Just as he can determine that a gravely important law' shall bind only under pain of venial sin, so he can make the obligation of certain laws disjunctive. That is, he may attach the obligation either to the observance of the law' or to the acceptance of the penalty, so that the citizen has the option of being bound to the latter instead of the former.

It is to be observed that a purely penal law' must carry some obligation. The legislator cannot enact a statute which would bind the citizen neither to obey its provisions nor to accept its penalties.[14] Such an enactment would not be a true law, inasmuch as it would lack an essential element, namely, moral binding force. Hence the legislator must have at least the implicit intention of morally obliging the citizen to accept the penalty in case of violation.

It seems, however, that the practical obligation of a purely penal law is attenuated almost to the vanishing point. If the violator of the law is not obliged to make known his transgression, nor to waive his legal right of defence, his duty of "accepting the penalty" is merely that of submitting to the sentence of the court. That is, he must not break jail nor evade payment of a fine. When the offender evades apprehension, he escapes all moral obligation; when he successfully contests prosecution, he

[14] Cf. Suarez, *op. di.,* lib. 3, cap. 27, no. 3.

likewise remains free from moral accountability; when he is convicted, his moral obligation is merely that of omitting actions from which in most cases he is physically restrained by the sheriff or the policeman. In a word, the moral obligation of a purely penal law is next to nothing, its moral sanction, *i.e.,* the effectiveness of the moral element in preventing violations, is practically nothing.

There seems to be good reason for holding that the concept of purely penal law should be discarded in favor of another principle which would obtain a much better observance of the law and attainment of its end, without bringing upon the citizen an intolerable burden. According to this principle, one may distinguish between the letter of a statute and its spirit, between the end at which it is directed and the means specified in its language. For example, a driver on a well-paved road in the country finds that the legal speed limit is thirty miles an hour, but he knows that he can safely drive fifty. Instead of saying to himself, "the speed limit of thirty miles represents a 'purely penal' law, therefore, I shall violate it and run the risk of being penalized if a traffic officer catches and arrests me," he speaks thus to himself: "If I drive at a speed of fifty miles I shall attain the end of the law, which is safety for myself and for other persons on the road."

To be sure, this course is liable to abuse by persons who misjudge the facts of the situation as regards their own competence or the probability of accidents arising from other factors; but the number of drivers who would violate the law through use of this method would probably be much smaller than the number that, using the purely penal law device, took into account only the chances of being caught and arrested. The method here recommended concedes to every civil law the presumption of moral obligation but holds that this presumption ceases to exist whenever the citizen feels morally certain that he can disregard the letter of the law and still comply with its spirit and purpose.

Occasionally, it is said that civil laws in the United States and in some other countries are not morally binding because rulers do not believe in moral obligation, as stated above, or do not intend that their enactments shall oblige in conscience. The first statement is a great exaggeration, for the second there exists no

evidence. Even if the first were completely true it would not affect the binding force of civil law. St. Paul's exhortation to be "subject to the higher power" was written when the higher power of the Roman Empire consisted of pagans, therefore, of persons who had an even feebler conception of moral obligation than has the average civil official in our country. Of course, no law that is clearly unjust or otherwise immoral is binding in conscience. Here we merely state the general principle, adding the caution that since the presumption is always in favor of the validity of a law the burden of proof is upon the citizen who holds that a given statute lacks moral binding force.

Popular Acceptance

The final question concerning the degree of obligation attaching to civil laws, is whether their binding force depends upon popular acceptance or ratification. At first sight, an affirmative answer would seem to contradict the general doctrine of the foregoing pages, namely, that civil legislation binds in conscience. However, there is no necessary contradiction; for civil ordinances might, conceivably not attain the complete character of laws until they had been ratified by the people. In that supposition, the people would constitute an essential part of the legislative authority. The obligation of individual citizens to obey a statute would begin when the latter had been formally accepted by the people as a whole. Only then would "the will of the legislator" have become fully manifest and formally effective.

Suarez informs us that in his time this was the commonly held opinion of the jurists.[15] He cites eight or ten important names, and admits that their view seems to have been anticipated by Aristotle. Their argument was briefly as follows: In order to make binding laws, the legislator must have both the authority and the will. In fact, he has neither. That he lacks moral *power* to legislate validly without the people's consent, is shown by the fact that his authority to govern and to make any laws at all is derived from the people; and they have given him legislative authority on condition that his ordinances shall become binding

15 *Op. cit.,* lib. 3, cap. 19, no. 7.

only when accepted by the people. That this condition is attached to the grant of authority, is evident from the "most ancient usage of the Roman people," and from the fact that popular acceptation is the best indication that a law really promotes the common good, just as the contrary attitude of the people proves the law to be socially harmful and thus without validity. The *will* to make binding laws without the consent of the people is wanting to the legislator because he cannot have a genuine intention of doing something for which he lacks authority.

In passing it is worthy of note that these ultra-democratic jurists all wrote before the beginning of the seventeenth century. This was the period when Catholic teaching supported political absolutism and political oppression generally, according to the perverted notions that still pass in many quarters as history. Major, one of the writers cited by Suarez, declared that the community is superior to the prince in all things that pertain to sovereignty; yet this doctrine gives many of us a disagreeable shock when it falls upon our ears in such a modernized version as "the people are the masters, the public official is their servant." It is likewise noteworthy that in support of their theory of popular acceptance of laws, these writers appeal to a principle which no one disputed in their day, namely, that rulers and legislators derive their authority from the people. The inference drawn from this principle by the jurists was not admitted by the moral theologians, but the principle itself was universally received.

Generally and *per se,* popular acceptance is not necessary for the validity of a civil law. Such is the unanimous teaching of the moral theologians. As stated by Suarez, the following are the main reasons which support this principle.[10] In every State that is not a pure democracy, the people have transferred supreme political power to the rulers and legislators, and have not retained the right of accepting or rejecting legislation. Secondly, the authority to legislate would be plainly futile if the people were morally free to obey or not to obey. Thirdly, usage shows that laws are held to be binding as soon as they have been regularly enacted and promulgated. In short, civil laws are obligatory without popular ratification, on account of the

[10] *Op. cit.,* lib. 3, cap. 19, no. 7.

original grant of power to the rulers, on account of universal custom, and because this is necessary for the common good. It is not possible to overthrow this argument.

The general principle is subject, however, to certain qualifications and exceptions. Suarez notes that popular acceptance of the law is essential to its binding force when the people have attached that condition to the grant of legislative power. In the kingdom of Aragonia (a part of Medieval and benighted Spain, be it noted!) he says, the laws of the monarch do not become binding until they are ratified in public assemblies. On the same principle, certain enactments of legislative bodies in Switzerland, the United States, and New Zealand obtain the full force of law only when they have been approved by a popular referendum. Even in these States, the great majority of laws are recognized as valid as soon as they have been promulgated by the supreme legislative authority.

In the second place, Suarez points out that when a law is very frequently disregarded by the greater part of the people, the legislator may, through tacit consent, permit the law to be deprived of binding force. However, this is not an instance of direct popular authority over the law, but rather of revocation by the legislator. His tacit repeal of the law is, indeed, occasioned by popular refusal to accept. In the third place, the law docs not bind if it is not just, for an unjust law is no law at all. Fourthly, a law which is unreasonably burdensome to the people may sometimes lack obligatory force,—at least when it is so harsh that it is tantamount to an unjust enactment. Finally, when the majority of the people disregard the law to such an extent and in such a way that its observance by a minority becomes detrimental to the State, it ceases to bind the individual citizen.

To sum up: The Catholic Church, as well as natural reason, teaches that civil law binds in conscience. The ultimate basis of this obligation is the natural law; the immediate basis is the authority of the State. Civil laws of grave importance are gravely obligatory, unless the legislator formally intends their binding force to be slight. The general teaching of moral theologians is that a law is not binding without at least the implicit

intention of the legislator. Some civil laws may be purely penal, but their number is probably small. In general, civil laws are binding without popular ratification.

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Chapter XV

THE DUTIES OF THE CITIZEN

The obligation of the citizen to obey civil laws does not exhaust his duties to the State. So important is the State and its functions that it gives rise to a special kind of justice. This is called by the moral theologians legal justice, and it is commonly defined as that virtue which inclines the citizen to render to the community what is due it for the common good.[1] This means not only obedience to the laws, but all those actions, political and social, which are necessary for the common welfare. Legal justice binds both the ruler and the citizen. It obliges the former to make the common welfare the object of all his official acts. It obliges the citizen and the public official alike to comply with the laws, and to give due consideration to the needs of the State in all their actions and relationships.

The particular duties imposed upon public officials by the virtue of legal justice, can be stated summarily in a few paragraphs. The general obligation of promoting the social good implies, obviously, that the executives, the judge, the lawmaker, are bound to prefer that end to their private advantage. The man who regards public office as an opportunity for private gain, except incidentally and as a necessary consequence of faithful public sendee, is false to his trust and violates legal justice. To accept a bribe for aid in the enactment of a bad law, for negligent or oppressive administration of the law, or for unjust judicial conduct, is an evident moral wrong. To obtain some advantage on the occasion of proper official actions, for example, through some form of "graft," is likewise a violation of legal justice. Such conduct is generally forbidden by the civil law; at any rate, it renders right judgment and adequate performance of official duties extremely difficult. Public officials are not

[1] Cf. Vermeersch, *Quaestiones de Justitia,* pp. 39-49.

justified in exposing themselves to such a grave temptation. What is true of their own private advantage applies likewise to that of their friends. In their enactment and administration of the law, they may not extend favors of any sort to any individual or class of individuals. The common good must be preferred to the good of individuals, and all individuals must be treated with exact justice.

In many of our cities, Catholic officials have been and still are conspicuous among the offenders against civil honesty and civic decency. It is not too much to say that they are sufficiently numerous and prominent to constitute a grave scandal. How can their activities be explained? Are they all knowingly guilty of wrong-doing? It is hard to believe that, this is true in the case of some who outwardly conduct themselves as good men and good Christians, even as constant churchgoers, and occasionally as weekly communicants. If they are in good faith, if they do not realize that their criminal conduct is contrary to the moral law and to Catholic teaching, then it would seem that the instruction which they have received in Sunday school and which they now receive from the pulpit is vitally and conspicuously defective. In this situation, we are confronted with a dilemma, either horn of which presents an uncomfortable position.

All public officials, Catholics and non-Catholics, have obligations of honesty towards the different classes that make up society. Every social class has a just claim against the State and its officials for that measure of governmental protection and assistance which is necessary to provide the conditions of right and reasonable life. Today this principle receives its chief application in the weaker economic classes. As Pope Leo XIII observed: "The richer classes have many ways of shielding themselves, and stand less in need of help from the State; whereas, those who are badly off have no resources of their own to fall back upon, and must chiefly depend upon the assistance of the State. And it is for this reason that wage earners, who are undoubtedly among the weak and necessitous, should be specially cared for and protected by the government."[2] Therefore, legislators are morally bound to provide for minimum decent

2 Encyclical, *On the Condition of Labor.*

standards of life and labor. This means legislation to prevent child labor, an excessively long working day, oppressive conditions in work places, unduly low wages, and the subjection of the workers to an inhumane insecurity as regards unemployment, sickness, accidents, invalidity, and old age. Public officials are likewise under obligation to promote in due measure the prosperity of industrial enterprise, to levy taxes in proportion to ability and sacrifice, and in general to deal with all classes according to their actual needs and deserts, not according to some doctrinaire theory of *laissez-faire* or of opposition to class legislation. In the words of Pope Leo XIII: "Among the many and grave duties of rulers who would do their best for the people, the first and chief is to act with strict justice—with that justice which is called by the Schoolmen *distributive*—towards each and every class alike."[7]

One of the primary duties of public officials is to possess an adequate knowledge of what constitutes the common welfare, and of the means by which it is best promoted. This obligation is disregarded by a large proportion of those who seek public office. Men who are otherwise conscientious assume that good will and right motives arc a sufficient equipment for public service. When we consider the enormously extended functions of the modern State, the numerous and profound ways in which its activities affect the welfare of all the people, and the consequent complexity of legislating and governing wisely, we see that this notion is utterly mistaken. Only in local governments and subordinate official positions is it true that common honesty plus common sense suffice for those who are charged with the duty of caring for the public welfare. In all the more important legislative and executive officers, a considerable amount of special and specific knowledge is essential to an adequate discharge of official obligations.

So much for the nature and elements of the obligation resting upon public officials. The scope of their obligation is identical with the province of the State. This has been described in preceding chapters on the State's end and functions. All of these functions, intellectual, moral, religious, political, civic, and

[7] Encyclical, *On the Condition of Labor.*

economic, public officials are morally bound to perform in accordance with the principles of strict justice and proportionate justice.

The statement is frequently made in the United States that public officials are merely public servants. It is incorrect. They are, indeed, the servants of the people, but they are also something more. Inasmuch as their function is that of public service, they may properly be regarded as public servants; inasmuch as their position gives them the authority to enact laws which are morally binding on the people, they are not servants but masters. Their character as public servants does not depend upon the fact that they are elected by the people; for hereditary kings are likewise bound to serve the common welfare. In a republic the members of legislatures may in a special sense be regarded as servants of the people, whenever they are instructed by the electors to carry out certain political policies. Their promise to pursue this course creates a particular responsibility to the people, and renders their position analogous to that of servants or agents. Nevertheless, they are masters and rulers when they enact the legislation necessary to carry out the policies to which they have committed themselves.

The first duty of the citizen is obedience to law. It extends to the ordinances of every jurisdiction in which the citizen finds himself, national, State, and municipal. The basis, nature, and limits of this duty have been described in the preceding chapter.

A second duty is that of respect for public authority, and this means both public officials and their enactments. Of course, this duty can be exaggerated, but in our day and country the opposite perversion is much more frequent. Through false inferences drawn from the principles of democracy, men are inclined to minimize, or even to reject entirely, this obligation. Conscious that elected officials are human beings of the same clay as himself, and dependent upon him for an elevation that is only temporary, the citizen easily assumes that to show them respect is undemocratic and unworthy. The *Century Dictionary* defines respect as, "the feeling of esteem, regard, or consideration excited by the contemplation of personal worth, dignity, or power; also a similar feeling excited by corresponding attributes

in things." While public officials are sometimes lacking in personal worth and dignity, they are always the possessors and custodians of political power, which of its nature demands esteem and consideration. Were this attitude habitually taken by the citizens, the problem of securing law observance would be greatly simplified. The man who refuses respect to civil authority because he fears that it would demean or degrade him, exhibits the slave mind and temper; for he has not sufficient confidence in his own worth to feel that he can afford to give honor where honor is due, or to recognize any kind of superiority. Such a man is not only a bad citizen but a detriment to any social group.

Closely connected with obedience is the duty of loyalty. In essence loyalty means faithfulness and constancy in allegiance and service. To the idea of obedience, which may be quite formal, mechanical, and even reluctant, it adds the notions of intensity, emotion, spontaneity, and constancy. The genuinely loyal citizen is always ready and eager, not only to obey the laws, but to support and maintain the political institutions of his country. If the citizen merely refrains from seditious or treasonable conduct his loyalty is negative and imperfect. Whether positive or negative, loyalty always implies a certain habitual spirit and attitude toward laws and institutions. It habitually recognizes that a presumption exists in favor of organic and statutory enactments and principles. The loyal citizen is always disposed to give his government and his political institutions "the benefit of the doubt," and to withhold obedience or support only when the doubt is converted into moral certainty that the laws or the government are in the wrong. In a word, the habitual attitude of the loyal citizen is that of sympathetic faith, not that of criticality and distrust.

The participation of the United States in the great war made the subject of loyalty lively and very practical. As might have been expected, the discussion gave ignorant, prejudiced, and selfish men the opportunity to exploit perverted notions of loyalty. During and since the war, various groups and organizations endeavored with considerable success to fasten the stigma

of disloyalty upon many of their fellow citizens who were guilty of neither treason nor sedition. The conception of loyalty to the Constitution became perverted into the doctrine that any attempt to change the Constitution, even by legitimate means, is disloyal. Not only the method but the scope of loyalty was distorted. The demand was impudently and blatantly made that all citizens should show loyalty not only to our political and legal institutions, but also to our industrial institutions, specifically to the existing positions and relations of capital and labor. Any theory or movement which aimed at essentially modifying the industrial system or diminishing the power of capital, whether through Socialism, Guildism, or co-operative enterprise, was denounced as seditious and un-American. It is significant that both these forms of exaggeration were, in the main, committed by the same persons. They denounced any effort to change the Constitution because they dislike changes which would facilitate industrial reforms and social justice; they strove to place industrial institutions on the same plane of authority as political institutions because they wished to perpetuate economic injustice. In short, the perversions and exaggerations of the notion and duty of loyalty were mainly determined by sordid economic motives.

These corruptions of a noble sentiment and doctrine do not merit a formal refutation. Loyalty to political institutions docs not exclude the desire or the effort to modify or even to abolish them by orderly and reasonable processes. Loyalty to the State, to one's country, to the public weal, does not include belief in, love of, or defence of existing private institutions, industrial or other. The loyalty which is incumbent upon the citizen, as citizen, concerns only political institutions and relations. The organized attempt to make it apply to the economic order, is one of the most extraordinary and brazen performances in the history of human selfishness. It was possible only in the vitiated atmosphere of war, and in the abnormal psychology of the years immediately following.

In his excellent brochure on *Christian Citizenship,* the Rev. Thomas Wright declares that obedience, respect, and loyalty are

the constituent elements of patriotism.* Probably this is as satisfactory as any other analysis of the vague, though apparently elementan', sentiment that we call patriotism. The good citizen loves to be acclaimed a patriot, and the orator finds patriotism one of the most appealing and popular subjects. Nevertheless, it is very elusive. To the average man it means love of country, but what does love of country mean? Not merely love of green fields, lofty mountains, and winding rivers; not always love of existing political institutions. In time of actual or threatened war, the idea of patriotism is very simple. It means support and defence of one's country against armed attack.

In time of peace, the phrase, "love of country," means many things to many minds. The object of the love may be the physical characteristics of the country, or its economic and social opportunities, or its government, or its political ideals, or its history, or some combination of these entities. As commonly used, the term patriotism has almost always an international connotation. It appears to the national consciousness. It brings before the mind the facts of national individuality, separateness, distinctness of interests. It lays stress upon the welfare of one's own country against the welfare of other countries. Too often it takes the form of boasting, jingoism, contempt of foreign nations, and identifies the national welfare with national power, imperialism, and aggression. The average citizen frequently confuses patriotism with national jealousy and provincialism. He does not regularly think of it as having anything to do with internal affairs.

Adequate and rational patriotism should be quite as active in peace as in war, and it should extend to even' matter that affects the common good. If patriotism is love of country its only rational and concrete meaning is love of the people who inhabit the country and compose the State, in other words, love of one's fellow citizens. Therefore, its ultimate object is the same as that of the State, namely, the common good. In time of peace the common good is much more dependent upon domestic legislation and administration than upon foreign policies. The true

*P. 61. The subject of patriotism is presented from two different viewpoints by Archbishop Ireland and Archbishop Spalding in the productions reprinted in this volume.

patriot realizes this and strives to promote the common good in all his political activities. The man who participates in political corruption, or uses his political position or influence for the undue advantage of any social group or for the oppression of any social class, is not a patriot, no matter how loudly he may acclaim the glories of his country, or how truculently he may proclaim his willingness to fight foreigners.

Taking up now the more specific duties of the citizen, we find that they may be conveniently grouped under two heads: Those which are elementary and which exist under all forms of government; those which arc complex and have place only in a State that possesses representative institutions. The most important of the specific elementary duties arc concerned with taxation and militan' service.

According to Catholic teaching, statutes imposing taxes bind in conscience. The general reason is the same as that which attaches moral obligation to other civil laws. That is the common welfare. Since government cannot maintain itself nor perform its functions without revenues, and since it has no other means of obtaining them than taxation, the citizens are morally bound to provide the necessary revenues in this manner. Moreover, the obligation is not merely one of legal justice, that justice which requires citizens to promote the common good, but also of strict justice, that justice which requires restitution to be made when it is violated.§ If the citizens fail to pay taxes they sometimes inflict injury upon the State, injury which can be measured in terms of money and repaired by payments of money. When the evasion does not produce such injury, owing to the fact that the authorities increase the tax *rate,* or devise other and more effective forms of taxation, the obligation of making restitution will have a different object. The real beneficiaries of restitution will then be those citizens who have acted conscientiously and paid the full measure of taxes levied upon them.

Let us suppose that a tax rate of one and one-half per cent will yield sufficient revenue for a city if all the citizens contribute their proportionate share. Through various devices very many of them evade a considerable part of their obligation. In so far

•Cf. Bouquillon, *Theologia Moralis Fundamentalis,* pp. 460-463.

as the deficit is not made up through an increase in the tax rate, an injury is done the public welfare. If the rate is raised sufficiently to bring in all the necessary revenues, the conscientious taxpayers contribute more than their proper share, and, therefore, suffer injustice at the hands of the dishonest. If the evasions are so great as to require that the rate be raised to two per cent, it means that the honest citizens are paying one-third more than their fair quota. They pay one-third more than they would have to pay if all were as honest as they. The injustice done them by the evasive action of their fellow citizens is obvious. Hence follows the obligation of restitution.

These are the general principles. Their application, however, is not entirely simple, owing to the complexity and injustice of our tax system, and the very large proportion of persons who habitually understate their taxable property. The principal form of taxation, at least in local and State jurisdictions, is what is known as the general property tax. Not only does this directly violate the ethical principle of taxation in proportion to ability to pay, as determined by comparative sacrifices, but it is apportioned and administered most inequitably, and it is evaded in wholesale fashion. In the words of Professor Seligman, "the general property tax, as actually administered, is beyond doubt one of the worst taxes known in the civilized world."* In these circumstances, the conscientious citizen cannot be required to do more than pay that proportion of the full amount which is paid by the majority. If the prevailing understatement of taxable property amounts to twenty-five per cent, the citizen who pays on more than three-fourths of his goods contributes more than his share.† The general rule of action may properly be applied to other kinds of taxes where evasion is considerable and notorious. Of course, the conscientious citizen will not take advantage of it until he is morally certain of the facts.

It is sometimes asserted that certain tax laws are purely penal, obliging the citizen only to submit to the penalty in case his evasion is detected. From the discussion in the last chapter,

* *Essays in Taxation,* p. 61.
† Cf. Tanquerey, *De Justitia,* no. 597.

it seems fairly clear that this theory must be applied with great caution, and that the tax laws which fall under it are exceptional. Tariff duties are the taxes most commonly adduced. Probably the laws prescribing these are purely penal, not only because of the common popular conviction, but because they are saturated with economic and ethical inequalities.

As a rule, the citizen is not bound to pay taxes until the amount due from him has been defined by the fiscal authorities. When he is legally required to furnish a statement of his property, he is obliged by legal justice to comply. Is he obliged to volunteer such information? For example, is a person morally bound to inform the authorities that his income is sufficiently large to subject him to the income tax? If he does not give this spontaneous information he will escape. The income tax law requires the citizens to make such a statement, and penalizes them for failure to do so when their evasion of the tax has been detected. It seems clear, therefore, that the citizen is bound by legal justice to provide a statement of his taxable property, not only in response to an official requisition, but sometimes in the absence of such a requisition.

Another elementary obligation of the citizen is that of military service, when required by a law of conscription. The object of such a law' is of the greatest importance to the public weal. As a rule, the obligation is gravely binding in conscience. Hence all fraudulent methods of escaping its operation are a violation of legal justice.

The second class of duties incumbent on the citizen results from his electoral functions. In a republic, legislation and administration depend finally upon the intelligence and morality of the voters. They have it in their power to make the government a good one or a bad one. Whether the common good will be promoted or injured, depends upon the kind of laws enacted and the manner in which they arc administered; but the character of the laws and the administration is primarily determined by the way in which the citizens discharge their function of choosing legislators and administrators. Therefore, this function is of the gravest importance and the obligation which it imposes is likewise grave.

It must be admitted that the importance and gravity of this obligation is frequently ignored by Catholics, as well as by other citizens. Writing of Great Britain, the Rev. Thomas Wright declares: "There are large numbers of Catholics in this land with but little appreciation of the strong interrelation which exists between true citizenship and Christianity. . . . Many excuses, it must be owned, may be alleged in extenuation of the apathy of Catholics toward their civic obligations in these lands. Time, however, has undermined the substance of these apologetic pleas. Catholics arc now able to appeal to no sufficient cause why they should stand aloof from public affairs, or why, participating in them, they need indiscriminately follow the policies of parties without thought or test of their moral justification."[•]

These observations may be applied in full measure to the Catholics of the United States. Like their coreligionists of Great Britain, they can show historical conditions to extenuate, if not to justify, their neglect of political obligations. Very many, if not the majority, of them are persons, or the descendants of persons, who came from countries whose governments treated Catholics unfairly and allowed them very little participation in public affairs. As a consequence, a large proportion of American Catholics have been, until quite recently, possessed of what has been happily characterized as "the psychology of persecution." They have looked upon government with a certain measure of distrust, and, therefore, have been predisposed to ignore or to minimize their electoral responsibility. Many of them have easily and complacently accepted the cynical judgment that "politics is a rotten business," and have either held aloof or permitted their political influence to be utilized by special and unworthy interests.

The Catholic teaching on the duty of exercising the voting franchise, as stated in the authoritative manuals of moral theology, may be summed up as follows: •

The obligation of taking part in the election of candidates for civil offices, is an obligation of legal justice. The citizens

• *Christian Citizenship,* pp. 17, 18.

•Cf. Tanquercy, *De Justitia,* pp. 475–177; Noldin, *De Praeceptis,* pp. 336-339.

are bound to promote the common good in all reasonable ways. The franchise enables them to further or to hinder the common weal greatly and fundamentally, inasmuch as the quality of the government, depends upon the kind of officials they elect. Not only questions of politics, but social, industrial, educational, moral and religious subjects arc regulated by legislative bodies and administered by executives. Therefore, the matter is of grave importance, and the obligation of the citizen to participate in the election and to support fit candidates is correspondingly grave. According to Tanquerey, the elector cannot free himself from this obligation by any slight cause or reason, such as, going hunting, or criticism by his neighbors. The excusing cause needs to be of grave nature, such as loss of one's means of livelihood. A slight cause will relieve the citizen from the obligation of voting only when he is morally certain that he cannot affect the immediate result. Even then, he ought to take part in the election to show good example, and to hasten the day when the cause which he supports will command a majority of the voters.[10]

Just as the official is obliged to refrain from promoting the interests of individuals as against the common good, so the elector is morally bound to cast his vote for the common welfare, instead of for the benefit of private persons or groups. This principle is very often forgotten by well-meaning citizens; for example, by giving their political support to a friend, or to a member of their own race or religion, when he has not the required moral or intellectual equipment, or when he is the upholder of socially harmful policies. Too often in such situations the honest citizen salves his conscience with the excuse that the opposing candidate "is just as bad." Were this the fact one might legitimately determine one's choice on the basis of personal friendship, or racial or religious affiliation, or other extrinsic considerations; but the general fact is that voters who adopt this course do not take adequate care to find out whether the candidate of the opposition is in reality "just as bad." They too easily decide the question on the basis of their inclinations and predilections.

[10] Tanquerey *loc. cit.*

Closely connected with this unjustifiable practice is that of ignoring *principles* and *policies* in the exercise of the franchise. "Vote for a good man, regardless of party," is a plausible but essentially inadequate political rule. A distinction should be drawn between legislative offices and those which are merely administrative. In choosing a city treasurer or a county auditor, the only pertinent qualifications are honesty, intellectual capacity and technical equipment. There is involved no question of legislative policy. When the office to be filled is that of Governor of a State, President of the United States, member of a State legislature, or congressman, other qualifications are essential in addition to those just mentioned. The "good man" may have some very harmful views concerning political and industrial policies. He may sincerely favor national imperialism and jingoism, or legislation to promote the undue aggrandizement of one social class or the oppression of another social class. Obviously the citizen does not fulfil his duty of promoting the common good when he votes for a "good man" of this sort. Sometimes the common welfare will suffer less through the election of a man whose political policies arc right but whose moral or intellectual equipment is deficient, than through the elevation of a "good man" who gives his adhesion to wrong policies.

It is sometimes said that the good man in other relations of life is always the best kind of a citizen. This statement is only a half truth. The unqualified propagation and acceptance of it is a serious obstacle to the improvement of citizenship. Fidelity to one's duties as husband, father, son, brother, neighbor, employer, employee, buyer, seller, debtor, creditor, professional man, and client,—does, indeed, contribute very greatly toward the common welfare. Actions performed under the direction of the domestic and social virtues necessarily promote individual and social happiness, just as the opposite actions arc an injury to the commonwealth. Nevertheless, these virtues are not a complete equipment for all the duties of citizenship. They do not of themselves provide the citizen with that specific knowledge which he requires as a voter, nor with that civic consciousness which is essential to good citizenship. Just as an honest employer may treat his employees unjustly because he is unac-

quainted with those moral principles which apply specifically to industrial relations, or because he has an insufficient knowledge of the living conditions and needs of the workers, so the virtuous citizen may fail in his duties to the State because he does not realize the importance of this particular responsibility, or because he lacks the specific political knowledge which would enable him to exercise his suffrage for the best interests of the commonwealth. In this category are the man who does not realize how fundamentally good government depends upon the electors, the man who lazily assumes that politics is necessarily corrupt, and the man who thinks it sufficient to vote for good men, without any reference to the helpfulness or harmfulness of their political principles and policies.

In a word, the good man is not a good citizen unless he possesses the specific knowledge essential to good citizenship. This comprises adequate perception of the citizen's power and responsibility, and a reasonable degree of acquaintance with political institutions, personages, and policies. The good citizen recognizes all these obligations and makes reasonable and continuous efforts to fulfil them. Such a man, and only such a man, possesses an adequate civic consciousness.

Worth quoting arc the following extracts from a letter addressed to his people, in the year 1921, by the late Cardinal Arnette, Archbishop of Paris:

"In the joint, letter which they recently addressed to the French Catholics, the bishops of France said: Tt is a duty of conscience for all citizens honored with the right of suffrage to vote honestly and wisely with the sole aim of benefiting the country. The citizen is subject to the divine law as is the Christian. Of our votes, as of all our actions, God will demand an account. The duty of voting is so much the more binding upon conscience because on its good or evil exercise depend the gravest interests of the country and of religion.'

"It is your duty to vote. To neglect to do so would be a culpable abdication of duty on your part. It is your duty to vote *honestly;* that is to say, for men worthy of your esteem and trust. It is your duty to vote *wisely;* that is to say, in such a way as not to waste your votes. It would be better to

cast them for candidates who, although not giving complete satisfaction to all our legitimate demands, would lead us to expect from them a line of conduct useful to the country, rather than to keep your votes for others whose program would indeed be more perfect, but whose almost certain defeat might open the door to the enemies of religion and of the social order."

Tanquerey points out that, in order to be able to vote rightly and intelligently, in order to possess the specific knowledge requisite for this purpose, upright citizens should organize and participate in political associations." This is obvious. Men unite in trade unions, manufacturers' associations, chambers of commerce, and professional societies of various kinds for the promotion of their economic interests. Hundreds of thousands of good men, thus occupationally organized, fail to see the necessity of organizing politically for the protection of their civic interests and the effective performance of their duties to the commonwealth. The conduct of political organizations they leave to professional politicians who are usually in the service of selfish private interests. When the inactive citizens see the evil results of this arrangement, they attempt to justify their aloofness by the reflection that politics is essentially corrupt. This lazy pessimism is not warranted by anything inherent in political affairs. It represents a vain attempt to evade moral responsibility. If politics is rotten, a large part of the responsibility rests upon well meaning but indolent citizens.

In view of the fundamental and immense importance to the State of the voting function, and since the electors are in a practical sense the primary political authority, it would seem that the electoral duties of the citizens arc not merely duties of legal justice. It would seem that, like the obligations of public officials they also fall under the head of strict or commutative justice. A group of legislators inflict injury upon the community by a bad law, thereby violating strict justice: Are not the citizens who elected them guilty of the same kind of injustice, in so far as they foresaw this possibility? The difference between

" *Loc. cit.*

their offence and that of the legislators seems to be one of degree, not one of kind.

Among the electoral duties of the citizen is that of becoming a candidate for public office in some circumstances. Of course, this applies only to that small minority who are competent. In certain situations, says Noldin, an upright Catholic is bound by a grave obligation to become a candidate for an administrative or legislative office; that is, when his election is certain, when he is able to avert, grave evils from the community, when he can accept the office without grave inconvenience to himself, and when no other equally competent candidate is available.[12] In as much as the issues involved in such a situation are of much graver consequence than those dependent upon the ballot of the private citizen, the man who refuses to become a candidate for office will need a much graver reason to excuse him than will the citizen who merely neglects to vote.

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[12] *Loc. cit.*

Chapter XVI

THE RIGHTS OF THE CITIZEN

The citizen possesses two distinct classes of rights. One of these belongs to him as a human being, the other as a member of the State. Rights of the first class are called natural, those of the second class civil. The distinction between the two depends, not so much upon their nature, as upon their source. Natural rights are those which are derived from the individual's nature, needs, and destiny. They are those moral prerogatives which the individual needs in order to live a reasonable life, and attain the end appointed for him by God. Civil rights are conferred by the State for the promotion of the common good, and for the welfare of the individual citizen.

Probably a majority of the writers on political science, as well as the greater part of non-Catholic authorities in economics and sociology, reject the doctrine of natural rights. In their opinion, all rights are derived from the State. Hence the citizen possesses only civil rights. It is not necessary in this place to set down a formal refutation of this theory. It will be sufficient to point out that the theory inverts the position of the State relatively to the individual. According to its logic, the individual exists for the State. Against the State he has no moral rights, but only those immunities and guarantees which the State itself is willing to grant. Consequently, the State may, if it chooses, deprive the citizen of all rights whatever, may arbitrarily take away his liberty and his property, and even put him to death. According to the Catholic doctrine, the State exists ultimately for the individual, and the individual is endowed with certain natural rights which belong to him because of his nature, because he is a person, and because of his intrinsic sacredness. As the State does not create or confer these rights, it cannot take them away.

This doctrine is not only Catholic, but it is a part of the traditional American political theory, and it is specifically included in the Declaration of Independence. The second paragraph of that immortal document begins thus: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness." Although the last clause of this statement is not an explicit enumeration of all man's natural rights, it does embrace them all implicitly. Life and liberty cover a very large part of the field of natural rights; the pursuit of happiness implies the rights of marriage and of property, which embrace the remainder of that field. Man's natural rights may, therefore, be summarized as those of life, liberty, marriage, and property. Liberty is, of course, a wide conception extending to physical movement, education, religion, speech and writing. Under the head of life is included immunity from all forms of arbitrary physical assault. All these rights belong to the citizen as a human being because they are all necessary for his existence, for the development of his personality, for reasonable human living, and for the attainment of the end which God commands him to attain. In the United States they are all likewise rights of the citizen as citizen. In other words, they arc civil as well as natural rights.

A systematic exposition and defence of these several rights is not necessary in this chapter. Most of them have been sufficiently treated in earlier sections of this volume. The right to life is intrinsic; is an end in itself, being directly based upon the sacrcdncss of personality. The right to the various forms of liberty is a means to the end of right and reasonable living. It docs not include the right to do or say unreasonable things. Like all other rights which are means, it is limited by the ends which it is designed to promote. The right to marry is directly necessary for the welfare of the individual. Even though a person does not need to marry and can secure his welfare better as a celibate, he has, nevertheless, the right to determine for himself whether or not he shall marry. The State has no right to decide this question for him. Property in those kinds of

goods which meet man's immediate wants, such as food, clothing, and shelter, is directly necessary for individual welfare; therefore, the individual has a natural right to acquire them as his own. Property in goods which have a more remote relation to individual needs, such as, land, machinery, and the instruments of production generally, is not directly and immediately necessary for the individual; but the *institution* of private property in such goods is essential to human welfare, inasmuch as no other arrangement is adequate. All the foregoing natural rights belong to the individual as such, and consequently are valid against the State.

The rights of the American citizen, as such, are set forth in the Constitution of the United States, and in the constitutions of the various commonwealths. They are substantially the same in all these documents. The first amendment to the Constitution of the United States reads thus:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

While the language of this amendment seems to guarantee unlimited freedom of speech and of the press, it has never been so interpreted by the lawmakers or the courts. Rather has it been construed as that reasonable degree of liberty of speech and writing which had prevailed in the American colonies and in England for generations. During the World War, therefore, Congress and many State legislatures enacted laws forbidding men to speak or write anything tending to hinder effective prosecution of the war. These laws were enacted under the authority of the war making and war legislating powers contained in Section 8 of Article 1 of the Constitution of the United States.

That form of liberty which consists in immunity from invasion of one's home is secured in the fourth amendment to the national Constitution:

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures,

shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath of affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

This means that no private individual, nor any officer of the law, may enter a man's house without permission, unless a formal warrant has been obtained from court. Overzealous or malicious officers may not enter a house against the wish of the occupier on mere suspicion.

Security against unjust or arbitrary prosecution by officers of the law is guaranteed in the sixth amendment:

'Tn all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

This civil right is of the highest importance. Its principal effects are to protect the citizen against a prison sentence until he has had a fair trial; to assure him a trial as soon as possible after his arrest; to allow him witnesses on his behalf, and the assistance of a lawyer; to give him liberty on bail until his trial begins, unless the crime with which he is charged is very serious; and to enable him to appeal to the higher courts against an unfavorable sentence. To be sure, these guarantees are occasionally disregarded by the officials, but the number of such violations of civil right is not large. They become considerable only in time of war, or in a period immediately following war, when the calm judgment of the law officers is disturbed by fear or some other passion.

One of the most important individual guarantees is contained in the fifth amendment to the Constitution, which declares that no person shall be "deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation." The phrase "due process of law" has, in the course of time, acquired a very wide

and rather indefinite comprehension, but its elementary and traditional meaning is fairly definite. At the least, it means that a man's life, or liberty, or property may not be taken from him without a regular trial.

It should be noted that the foregoing amendments and provisions are binding only upon the Congress of the United States. With the exception of the prohibition against depriving the citizen of life, liberty, and property without due process of law, all these individual guarantees could be disregarded by the several states. For example, if the State of Georgia were to pass a law forbidding Catholics to assemble publicly for purposes of worship, or denying trial by jury to any of its citizens, it would not violate any of these provisions of the Constitution of the United States. The prohibitions contained in these provisions are addressed to Congress, not to the several States. Nevertheless, practically all, if not literally all, of the State constitutions contain similar guarantees of individual rights and similar prohibitions to their respective legislatures regarding interference with these rights.

The provision of the fifth amendment forbidding Congress to deprive the citizen of life, liberty, and property, without due process of law, is repeated in the fourteenth amendment, and is there addressed to the States. In the latter amendment the guarantee reads as follows:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Such arc the principal civil rights conferred upon and assured to the citizen by the organic laws of our country. They include all the liberty that anyone can reasonably claim, whether as a human being, or as a citizen. Inasmuch as they are matters of constitutional rather than statute law, they cannot be abolished through a temporary whim of the electore or by a simple act of the national or state legislatures. They can be repealed only by amending the constitutions, which is always a

sufficiently slow process to give time for the better judgment of men to reassert itself.

The political rights of the citizen are sometimes distinguished from his civil rights. The most important difference between them is that the former are intended primarily for a public purpose, while the latter have as their immediate end the welfare of the individual. The chief political rights of the citizen arc those of voting and holding office. According to the fifteenth amendment to the National Constitution, the right to vote "shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude." It is true that this right has been denied to colored voters in several of the states, through various devices evading the fifteenth amendment. However, it should be noted that these evasions do not amount to a violation of the *natural* rights of the negro. The elective franchise is not among the natural rights of the individual. It is created by the State for a civil purpose. Inasmuch as this purpose might conceivably be fulfilled, and in several States has been fulfilled, with the suffrage restricted to males and even to certain classes of males, it is clear that the power to vote is not a natural right inherent in every individual. It is a political privilege.

The rights of the American citizen, as guaranteed in the Constitution and in the amendments, especially the first ten, referred to usually as the Bill of Rights, may be enumerated as follows: (1) freedom of religion, (2) freedom of speech, of the press, and the right to peaceful assembly, (3) the right to keep and bear arms in accordance with the laws of the state, (4) to be free from the billeting of soldiers in private homes in time of peace, (5) to be free from punishment by a bill of attainder or *ex post facto* law, (6) to enjoy the privilege of the writ of *habeas corpus* under ordinary circumstances, (7) the right of security against unreasonable searches and seizures and against the issuance of warrants except on probable cause and supported by oath, (8) the right to a hearing before a grand jury in all federal cases involving serious crime, (9) to be immune from double jeopardy for the same offense, (10) to be immune from

acting as a witness against oneself, (11) the right not to be deprived of life, liberty, or property without due process of law, (12) the right to just compensation for taking private property for public use, (13) in criminal cases, the right to a speedy and public trial by jury, (14) to be confronted by witnesses, (15) to obtain witnesses, (16) to have the assistance of counsel for defense, (17) in civil cases involving over twenty dollars, the right of trial by jury, (18) to be free from excessive bail and excessive fines, (19) to be free from cruel and unusual punishments, (20) to be free from involuntary servitude, except as a punishment for crime, (21) the right to the equal protection of the laws in all states, (22) to enjoy the privileges and immunities of all the states, (23) to be protected against laws impairing the obligation of contracts, (24) to enjoy the privilege of voting without denial on account of race, color, or sex, (25) to sue and be sued in the courts, (26) the right to a republican form of government.

The ninth amendment states in addition that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

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Chapter XVII

ENCYCLICAL ON INTERNATIONAL RECONCILIATION

By Pope Benedict XV

Peace, the great gift of God, than which, in St. Augustine's words, there is no happier thing among men, nothing more desirable or better; peace, which all good people have implored for more than four years, with the prayers of the faithful and the tears of mothers, has finally begun to shine among the peoples, and We are among the first to rejoice at it. But still too many and too bitter anxieties disturb this Our paternal joy, for if almost everywhere the war has in a way come to an end, and several treaties of peace have been signed, nevertheless the germs of old bitterness remain and you know well, Venerable Brethren, that no peace can have consistency, no alliance can have strength, though elaborated in daily laborious conferences and solemnly sanctioned, if at the same time hatreds and enmities are not quenched by means of a reconciliation based on mutual charity.

It is on this consideration, which is full of anxiety and dangers, that We wish to dwell, Venerable Brethren, that at the same time the peoples entrusted to your care may have it brought home to them.

In truth, ever since by the hidden designs of God We were raised to the See of Peter, we have never ceased to do everything in Our power, from the very beginning of the war, that all the nations of the world might resume cordial relations among themselves. To that end We never ceased to pray, to repeat exhortations, to propose ways of arrangement, to try every means, in fact, to open, by Divine aid, a door of some sort to a

peace that might be just, honorable, and lasting; and at the same time We exorcised all Our paternal care to alleviate everywhere that terrible load of sorrow and disaster of every sort accompanying the immense tragedy.

And now, just as from the beginning of Our troubled Pontificate, the charity of Jesus Christ led Us to work both for the return of peace and to alleviate the horrors of the war, so now that a certain peace has been finally concluded, it is this same charity which urges Us to exhort all the children of the Church, or better, all men in the world, that they may put aside the old bitterness and give place to mutual love and concord.

There is no need for Us to dwell long on showing how humanity is incurring the risk of terrible disasters if, while peace indeed is concluded, latent hostility and enmity among the peoples continue. No need to dwell on the harm to all that is fruit of civilization and progress, to commerce and industry, literature and the arts, all of which flourish only when the peoples live together in tranquillity.

But more important still—grave harm would be done to the very life of Christianity, which is essentially based on charity, being called the very preaching of the law of Christ, "the Gospel of peace."

Indeed, as you well know and as We have often called to mind, nothing was so often and so insistently taught by the Divine Master to His disciples as this precept of fraternal charity as the one which includes all the others in itself; and Our Lord called that precept new and His own, desiring that it should be as the hall mark of the Christians by which they might easily be distinguished from all others.

No other, indeed, was the testament that He left to His followers when He died, praying them to love one another, and loving one another try to imitate the ineffable unity that exists between the Persons of the Holy Trinity: "That they may be one as we also arc one that they be made perfect in one."

And the Apostles, following the order of the Divine Master and taught by His very voice, were unceasing in their exhortation to the faithful: "But before all things have a constant mutual charity among yourselves"; "And above all these things

have charity which is the bond of perfection"; "Dearly beloved, let us love one another for charity is of God."

The teaching of Jesus Christ and of the Apostles was faithfully observed by Our brethren of the old times who belonged indeed to different nations, often at war among themselves, but who nevertheless wiped out the record of past differences in voluntary oblivion and lived in perfect concord.

And indeed there was marked contrast between such intimate union of minds and hearts and the deadly hostilities that then broke out among the nations.

What has already been said to teach the precept of charity holds good for the pardoning of offenses, no less solemnly commanded by the Lord: "But I say to you, love your enemies; do good to them that hate you, and pray for them that persecute and calumniate you, that you may be the children of your Father who is in Heaven, who maketh His sun to rise upon the good and bad." Hence that terribly severe warning of the Apostle St. John: "Whosoever hateth his brother is a murderer and you know that no murderer hath eternal life abiding in himself."

Finally, Jesus Christ has taught us to pray the Lord so that we ask for forgiveness on condition of forgiving others: "And forgive us our debts as we also forgive our debtors." And if sometimes the observance of this law seems too severe and difficult, the Redeemer of the human race Himself assists us not only with the Divine Grace but also by His admirable example, for as He hung on the cross He prayed pardon of His Father for those who so unjustly and wickedly tortured Him: "Father, forgive them, for they know not what they do."

We too should be the first to imitate the pity and loving kindness of Jesus Christ, whose Vicar We arc here, though without any merit of Our own; with all Our heart, following His example, We forgive all and every one of Our enemies who knowingly or unknowingly have heaped and arc still heaping on Our person and Our work every sort of vituperation, and We embrace all with supreme charity and benevolence, neglecting no opportunity to do them all the good in Our power; and that is indeed what Christians really worthy of the name are bound

to do towards those from whom they have received offenses during the war.

Christian charity in fact is not confined to not hating our enemies and loving them as brothers; it desires also that we do good to them, following the rule of the Divine Master who "went about doing good and healing all that were oppressed by the Devil," and ran the course of His mortal life giving it all up to doing untold good to men, even shedding His blood for them. So said St. John: "In this we have known the charity of God, because He hath laid down His life for us, and we ought to lay down our lives for the brethren. He that hath the substance of this world and shall see his brother in need and shall shut up his bowels from him, how doth the charity of God abide in him? My little children, let us not love in word nor in tongue, but in deed and in truth."

Never indeed was there a time when we should "spread the limits of charity" more than in these days of universal suffering and sorrow; never perhaps as to-day has humanity needed that common beneficence which grows from sincere love of our neighbor and is full of sacrifice and fervor. For if we look anywhere where the fury of the war has passed we see immense regions utterly desolate and squalid; multitudes reduced to such extremes as to be without bread, clothing, and shelter; innumerable widows and orphans awaiting help from someone; and lastly a great crowd of enfeebled beings, particularly infants and children, whose malformed bodies bear witness to the atrocity of the war.

To the mind of anyone who sees this picture of misery by which the human race is oppressed there must come back at once the story of the Gospel traveler who was journeying from Jerusalem to Jericho and fell among thieves who robbed him and covered him with wounds and left him half dead by the wayside. The two cases are very much alike; as to the traveler there came the good Samaritan, full of compassion, who bandaged his wounds, pouring oil and wine over them, took him to the inn and undertook all care of him, and so, to cure the wounds of the human race the hand of Christ Jesus is needed, of whom the Samaritan was figure and image.

That indeed is the work which the Church takes upon itself as heir and guardian of the spirit of Jesus Christ—the Church whose entire existence is a marvelously varied network of good deeds, the Church "that real mother of Christians which has such tenderness of love for its neighbor that for every one of the different evils which trouble the soul with sin it has ready every kind of medicine" and so "treats and guides children as children, young men with courage and strength, old people with quiet calm, as each has his condition not only in body but in soul." And all this many-sided Christian beneficence, by sweetening the spirit, has wonderful effect in restoring tranquillity to the peoples.

Therefore We pray you, Venerable Brethren, and We exhort you in the bowels of charity of Jesus Christ, do everything in your power, not only to urge the faithful entrusted to you to lay aside hatred and pardon offenses, but also to promote more actively all those works of Christian benevolence which bring aid to the needy, comfort to the afflicted, protection to the weak, opportune assistance, in fact, of every kind to all who have suffered most gravely through the war. We wish that you should specially exhort your priests, as ministers of peace, to be assiduous in this work, which is indeed the very compendium of the Christian life, in preaching love towards one's neighbors, even if enemies, and being "all things to all men." So as to afford a shining example, let them wage war everywhere on enmity and hatred, knowing well that in doing so they are doing a thing very welcome to the most loving Heart of Jesus and to him who, however unworthy, is His Vicar here on earth. And in this connection also they should exhort and pray Catholic journalists and writers in that "as elect of God, holy and beloved," they may clothe themselves in "the bowels of mercy and benignity," expressing it in their writings, abstaining not only from false and empty accusations but also from all intemperance and bitterness of language which is contrary to the law of Christ and docs no more than reopen sores as yet unhealed, especially in that men who are suffering bitterly from recent wounds find it difficult to endure even the lightest injury.

All that We have said here to individuals about their duty of

practicing charity We wish to apply also to those peoples who have fought the great war, in order that, when every cause of disagreement has been removed as far as possible, and saving of course reasons of justice, they may resume friendly relations among themselves. For the Evangelic law of charity is the same between individuals as between States and Nations, which are indeed but collections of individuals. From the moment that the war ended, both from motives of charity and also through a certain necessity of things, there has begun a universal drawing together of the peoples, moved to unite by their mutual needs as well as by reciprocal benevolence, which is more marked now that civilization is so extended and means of communication so marvelously increased.

Truly, as We have already said, this Apostolic See has never wearied of teaching during the war such pardon of offenses and the fraternal reconciliation of the peoples, in conformity with the most holy law of Jesus Christ and in agreement with the needs of humanity; nor did it allow that these moral principles should be forgotten, even in the clash of dissension and hatred. And now, after the treaties of peace, it puts forward these principles and proclaims them even more strongly, as indeed it did a short time ago in the letter to the Bishops of Germany and in the letter addressed to the Archbishop of Paris. And inasmuch as one very useful means of maintaining and increasing this concord among the peoples is found in the visits which the heads of States and Governments are accustomed to exchange to consult on matters of special importance, considering the changed circumstances of the times and the dangerous trend of events, in order to co-operate in this brotherhood of the peoples We are willing to mitigate in some measure the severity of the conditions which were justly laid down by Our predecessors, when the civil power of the Holy Sec was destroyed, to exclude visits to Rome of Catholic Princes in official form.

But at the same time We solemnly proclaim that this concession, determined, or rather willed, as is seen, on account of the seriousness of the present times, must not be interpreted as a tacit renunciation of sacrosanct rights as if the Holy See were satisfied with the abnormal condition in which it is now

placed. Indeed the protests which Our predecessors have several times made, not in the least moved thereto by human interests but by the sanctity of duty, to defend the dignity and rights of this Apostolic See, We on this occasion renew for the very same reasons, claiming once again and with even greater insistence that now that peace is made among the nations "for the Head of the Church too an end may be put to that abnormal condition which does serious harm, for many reasons, to that very tranquillity of the peoples."

Things being thus restored in the order desired by justice and charity, and the peoples reconciled among themselves, it would be truly desirable, Venerable Brethren, that all States should put aside mutual suspicion and unite in one sole society or rather family of peoples, both to guarantee their own independence and safeguard order in the civil concert of the peoples. A special reason, not to mention others, for forming this society among the nations, is the need generally recognized of reducing, if it is not possible to abolish it entirely, the enormous military expenditure which can no longer be borne by the States, in order that in this wray murderous and disastrous wars may be prevented and to each people may be assured, in the just confines, the independence and integrity of its own territory.

And once this League among the nations is founded on the Christian law in all that regards justice and charity, the Church will surely not refuse it valid aid, inasmuch as being itself the most perfect type of universal society; through its very essence and its aims it has wonderful power for bringing this brotherhood among men, not only for their eternal salvation but also for their material well-being; it leads them, that is, through temporal happiness so as not to lose the eternal. Indeed we know from history that when the spirit of the Church pervaded the ancient and barbarous nations of Europe, little by little the many and varied differences that divided them disappeared; in time they joined together in a homogeneous society from which originated modern Europe, under the guidance and auspices of the Church, while it preserved for each nation its own characteristics culminated in a compact unity bringing prosperity and greatness. Well does St. Augustine say in this regard: "This celestial city,

while in exile here on earth, calls to itself citizens of every nation and forms out of all the peoples one sole pilgrim society; no thought is had of differences in customs, laws, and institutions; everything which tends to the conquest and maintenance of peace on earth the Church, far from repudiating and destroying, jealously preserves; for however these things may vary among the nations, they are all directed to the same end of peace on earth as long as they do not hinder the exercise of the religion which teaches adoration of the one supreme true God."

And the same holy teacher thus spoke to the Church: "Citizens, peoples, and all men, recalling their common origin thou shall not only unite among themselves but shalt make them brothers."

We meanwhile, coming back to what we said at the beginning, turn affectionately to all our children and conjure them in the name of Our Lord Jesus Christ to forget mutual differences and offenses and draw together in the embrace of Christian charity before which there are no strangers; and we fervently exhort, too, all the nations that under the influence of Christian benevolence they establish a true peace among themselves and join together in one single alliance which, under the auspices of justice, will be lasting; and finally we appeal to all the men and all the peoples of the earth to adhere in mind and heart to the Catholic Church and through the Church to Christ the Redeemer of the human race, so that we may address to them in very truth the words of St. Paul to the Ephesians: "But now in Christ Jesus you who sometime were afar off are made nigh by the Blood of Christ. For He is our peace who hath made both one, and breaking down the middle wall of partition . . . killing the enmities in Himself. And coming he preached peace to you that were afar off and peace to them that were nigh."

Nor less appropriate are the words which the same Apostle addressed to the Colossians: "Lie not one to another: stripping yourselves of the old man with his deeds and putting on the new, him who is renewed unto knowledge according to the image of Him who created him. Where there is neither Gentile nor

Jew, circumcision nor uncircumcision, Barbarian nor Scythian, bond nor free. But Christ is all in all."

Meanwhile, trusting in the protection of the Virgin Immaculate who not long ago We directed should be universally invoked as "Queen of Peace," as also in that of the three new Saints, We humbly implore the Divine Spirit, the Paraclete, that He may "graciously grant to the Church the gift of unity and peace" and with even further outpouring of charity for the common salvation may renew the face of the earth. As harbinger of these celestial gifts and as pledge of Our paternal benevolence, We impart with all Our heart to you, Venerable Brethren, to all your clergy and people, the Apostolic Benediction.

Given in Rome at St. Peter's the 23d day of May, the solemnity of Pentecost 1920, the sixth year of Our Pontificate.

EXTRACTS FROM THE ENCYCLICAL LETTER

Sumini Pontificatus, October 20, 1939

Pope Pius XII

UNITY OF THE HUMAN RACE

With the weakening of faith in God and in Jesus Christ, and the darkening in men's minds of the light of moral principles, there disappeared the indispensable foundation of the stability and quiet of that internal and external, private and public order, which alone can support and safeguard the prosperity of States.

The first of these pernicious errors, wide-spread today, is the forgetfulness of that law of human solidarity and charity which is dictated and imposed by our common origin and by the equality of rational nature in all men, to whatever people they belong, and by the redeeming Sacrifice offered by Jesus Christ on the Altar of the Cross to His Heavenly Father on behalf of sinful mankind.

In fact, the first page of the Scripture, with magnificent simplicity, tells us how God, as a culmination to His creative work, made man to His Own image and likeness (cf. Genesis 1: 26, 27); and the same Scripture tells us that He enriched man with super-

natural gifts and privileges, and destined him to an eternal and ineffable happiness. It shows us besides how other men took their origin from the first couple, and then goes on, in unsurpassed vividness of language, to recount their division into different groups and their dispersion to various parts of the world. Even when they abandoned their Creator, God did not cease to regard them as His children, who, according to His merciful plan, should one day be reunited once more in His friendship (cf. Genesis 12, 3).

The Apostle of the Gentiles later on makes himself the herald of this truth which associates men as brothers in one great family, when he proclaims to the Greek world that God "hath made of one, all mankind, to dwell upon the whole face of the earth, determining appointed times, and the limits of their habitation, that they should seek God" (Acts 17, 26, 27).

A marvelous vision, which makes us see the human race in the unity of one common origin in God "one God and Father of all, Who is above all, and through all, and in us all" (Ephesians 4, 6) ; in the unity of nature which in every man is equally composed of material body and spiritual, immortal soul; in the unity of the immediate end and mission in the world; in the unity of dwelling place, the earth, of whose resources all men can by natural right avail themselves, to sustain and develop life; in the unity of the supernatural end, God Himself, to Whom all should tend; in the unity of means to secure that end.

It is the same Apostle who portrays for us mankind in the unity of its relations with the Son of God, image of the invisible God, in Whom all things have been created: "In Him were all things created" (Colossians 1, 16); in the unity of its ransom, effected for all by Christ, Who, through His Holy and most bitter Passion, restored the original friendship with God which had been broken, making Himself the Mediator between God and men: "For there is one God, and one Mediator of God and men, the man Christ Jesus" (Timothy 2, 5).

And to render such friendship between God and mankind more intimate, this same Divine and universal Mediator of salvation and of peace, in the sacred silence of the Supper Room, before He consummated the Supreme Sacrifice, let fall from His divine

Lips the words which reverberate mightily down the centuries, inspiring heroic charity in a world devoid of love and torn by hate: "This is my commandment that you love one another, as I have loved you" (St. John 15, 12).

In the light of this unity of all mankind, which exists in law and in fact, individuals do not feel themselves isolated units, like grains of sand, but united by the very force of their nature and by their internal destiny into an organic, harmonious, mutual relationship which varies with the changing of times.

And the nations, despite a difference of development due to diverse conditions of life and of culture, are not destined to break the unity of the human race, but rather to enrich and embellish it by the sharing of their own peculiar gifts and by that reciprocal interchange of goods which can be possible and efficacious only when a mutual love and a lively sense of charity unite all the sons of the same Father and all those redeemed by the same Divine Blood.

The Church of Christ, the faithful depository of the teaching of Divine Wisdom, cannot and does not think of deprecating or disdaining the particular characteristics which each people, with jealous and intelligible pride, cherishes and retains as a precious heritage. Her aim is a supernatural union in all-embracing love, deeply felt and practiced, and not the unity which is exclusively external and superficial and by that very fact weak.

The Church hails with joy and follows with her maternal blessing every method of guidance and care which aims at a wise and orderly evolution of particular forces and tendencies having their origin in the individual character of each race, provided that they are not opposed to the duties incumbent on men from their unity of origin and common destiny.

Trust among Nations

The idea which credits the State with unlimited authority is not simply an error harmful to the internal life of nations, to their prosperity, and to the larger and well-ordered increase in their well-being, but likewise it injures the relations between peoples, for it breaks the unity of supra-national society, robs

the law of nations of its foundation and vigor, leads to violation of others' rights and impedes agreement and peaceful intercourse.

A disposition, in fact, of the divinely-sanctioned natural order divides the human race into social groups, nations or States, which are mutually independent in organization and in the direction of their internal life. But for all that, the human race is bound together by reciprocal ties, moral and juridical, into a great commonwealth directed to the good of all nations and ruled by special laws which protect its unity and promote its prosperity.

Now no one can fail to see how the claim to absolute autonomy for the State stands in open opposition to this natural way that is inherent in man—nay, denies it utterly—and therefore leaves the stability of international relations at the mercy of the will of rulers, while it destroys the possibility of true union and fruitful collaboration directed to the general good.

So, Venerable Brethren, it is indispensable for the existence of harmonious and lasting contacts and of fruitful relations, that the peoples recognize and observe these principles of international law which regulate their normal development and activity. Such principles demand respect for corresponding rights to independence, to life and to the possibility of continuous development in the paths of civilization; they demand, further, fidelity to compacts agreed upon and sanctioned in conformity with the principles of the law of nations.

The indispensable presupposition, without doubt, of all peaceful intercourse between nations, and the very soul of the juridical relations in force among them, is mutual trust: the expectation and conviction that each party will respect its plighted word; the certainty that both sides are convinced that "better is wisdom, than weapons of war" (Ecclesiastes 9, 18), and arc ready to enter into discussion and to avoid recourse to force or to threats of force in case of delays, hindrances, changes or disputes, because all these things can be the result not of bad-will, but of changed circumstances and of genuine interests in conflict.

But on the other hand, to tear the law of nations from its anchor in Divine law, to base it on the autonomous will of States, is to dethrone that very law and deprive it of its noblest and strongest qualities. Thus it. would stand abandoned to the fatal

drive of private interest and collective selfishness exclusively intent on the assertion of its own rights and ignoring those of others.

Now, it is true that with the passage of time and the substantial change of circumstances, which were not and perhaps could not have been foreseen in the making of a treaty, such treaty or some of its clauses can in fact become, or at least seem to become, unjust, impracticable or too burdensome for one of the parties. It is obvious that should such be the case, recourse should be had in good time to a frank discussion with a view to modifying the treaty or making another in its stead. But to consider treaties on principle as ephemeral and tacitly to assume the authority of rescinding them unilaterally when they are no longer to one's advantage, would be to abolish all mutual trust among States. In this way, natural order would be destroyed and there would be seen dug between different peoples and nations trenches of division impossible to refill.

Chapter XVIII

THE ORGANIZATION OF INTERNATIONAL SOCIETY[1]

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The nineteenth century has rightly been called the century of the social problem; the twentieth will in all probability be the century of the international problem. The Church's teaching offers for both of these a satisfactory solution. As Catholics, however, have ignored, or have not obtained a satisfactory grasp of the former problem they have allowed themselves to be outdistanced in the social sphere by "architects whom God has not authorized to build."[2] If Catholics do not take care they will run the grave risk of being once again outdistanced in international matters by upholders of a "false ideal of salvation" who will not succeed in bringing to the world that order and peace after which they so ardently long.

In the problem of international relations there are in conflict two diametrically opposed theories—*Nationalism* and *Internationalism*— which clash, just as in the previous century *Individualism* and *Socialism* clashed in dealing with the problem of social relations.

The majority, indeed one might say the very large majority, of Catholics in the last century decided for individualism, being anxious to protect the legitimate prerogatives of human liberty as against a socialism which they feared would be a tyranny reducing all to a dead level. To-day the majority—is it an exaggeration to say the very large majority?—of Catholics stand

1 Reprinted with the permission of the Catholic Social Guild from *The Foundations of International Order.*

2 Encyclical *Mit Brennender Sorge.*

for nationalism, realizing as they do the duties imposed by filial piety in regard to the fatherland whose rights the international socialist ignores and whose existence he threatens.

In both instances Catholics have been carried away by the fragment of undoubted truth contained in both the theses to which they have given their support, but they have not distinguished the elements of error which they embodied. At the same time they have not been able to perceive the nucleus of truth which lay hidden in teachings they so energetically repudiated. Above all they have lost sight of that two-fold character of man and of his attributes, the individual and the social, which His Holiness Pius XI has stressed with such vigour in his encyclical *Quadragesimo Anno*.

Individualism and socialism in the order of relations between men, nationalism and internationalism in the order of relations between nations, each of these has grasped only one side of this double character. They only reflect a broken image of an integral truth and therefore an erroneous one. Catholics have no need to make a choice between the two doctrines appealing for their suffrage, since Christian philosophy offers an interpretation of social and international life which solves all antinomies and settles all difficulties: *solutio omnium difficultatum*.

It is in the light of this Christian philosophy that public opinion must devote itself to the study of the problem, more pressing than ever, of the organization of international society. This philosophy will reveal the natural character of the society of States, the need of giving to society the machinery indispensable to the carrying out of its mission, and finally the essential elements of its organization.

I. The Natural Society of States. The human race which forms but a single family as a result of the unity of its origin appears, when examined, to be subject to the influence of a two-fold movement of decentralization and integration.

The first of these movements, due to the multiplying of the species and its progressive diffusion over the surface of the earth, tends to break up the human race into groups ever more diversified owing to the influence of environment and climate.

The second movement, based on man's natural sociability,

prevents humanity from breaking up into individual atoms, quite distinct the one from the other, as is the case with most of the animal species. On the contrary it tends progressively to renew in individuals and groups the natural bonds of solidarity which have too great a tendency to loosen, and to reconstitute the indestructible unity of the human family hidden beneath the rich mosaic of racial variations and national peculiarities.

The first of these two movements, influenced by the need for expansion of the human race over the earth's surface, has (owing to the very nature of man) chiefly operated in the earliest epochs of the race; the second, rooted in the very nature of man, is a more permanent characteristic and on that ground must come more specially under our notice.

Man is a social being who is unable to find in himself everything he requires for the fulfilment of his personal end. He must therefore turn to the help and support of his fellow-men for the inevitable counter-balancing of his natural deficiencies. Arising out of the imperious need for the help of others, there exists for every man a natural right of association, that is to say a right to unite himself with his fellows and with their help to realize certain ends which they have in common beyond the power of any one individual to attain single-handed. Thus it comes about as a consequence of this unavoidable necessity that a number of groups or associations arise which may be spoken of as natural—the society of the family, political society, professional groups and many kinds of private associations. At the very least every one of these associations will fulfil a natural desire and some of them will even satisfy a positive demand of that same nature. Amongst these latter we would place after the family and the State, international society—*domus, urbs, orbis,* already mentioned by Saint Augustine.

These three natural groups do not, however, enjoin upon humanity the same degree of urgent necessity.

It is true that a society according to natural law presupposes a common and necessary good unattainable save through the collaboration of its associates. But the common good of humanity does not represent a final definite reality for ever fixed and identical. Its concept, restricted in the beginning to the smallest

number of factors, becomes enriched as the density of population gradually increases, as new needs arise and as the means of satisfying them are multiplied and made more perfect.

From the beginning the family claims to be the indispensable instrument for the propagation of the human species and for quite a long time, especially in the enlarged form which the patriarchal group, the clan or the tribe gives to it, it is able to secure for its members the only and very modest benefits to which their precarious state of existence allows them to aspire.

Subsequently the growth of population attached to a single territory gives rise to fresh needs and opens wider horizons of cultural progress for which the individual efforts of isolated families are inadequate. More extensive requirements than those so far expressed by the common good will only be satisfied if the families surrender the sovereign independence which they have up to the present enjoyed and agree to be integrated in a group of a higher order, the political society—city or State—alone able to co-ordinate their labours and increase their efficiency.

Ordinarily, however, the common good which a nation, left to its own resources, can hope to bestow on its members is very limited. It includes only one portion of those general conditions through which, according to Saint Thomas, each one may realize "the entire good of a human life." Isolated and forced back upon itself, a people finds that its possibilities of livelihood and development and its material prosperity arc strictly limited by the greater or lesser riches of its soil. However lofty may be the level to which a people can raise itself by its own methods of intellectual and moral culture, that culture will soon harden and become impoverished unless it is fortunate enough to be enriched by foreign contacts.

Attempts have been made to surround certain civilizations with protective ramparts, but these have merely resulted in keeping those civilizations in a state of fatal lethargy. On the other hand, never has culture reached a more amazing degree of advance or shone with greater brilliance than during those periods when the great currents of thought have flowed freely throughout the world (thirteenth century, Renaissance, modern times).

Admittedly the very scattered manner in which humanity has

advanced to the occupation of its earthly home, differences of climate, conditions of life, languages, difficulties of communication, have for long compelled the human race to subdivide itself rigidly into entirely isolated and independent nations, forced to limit their ambitions to the realization of a common good purely national, powerless to secure for their members all the conditions of the true "complete good of human life." Even the memory of its unity of origin which made every human being a member of the one family has been wholly obliterated and when by chance contact has been made, peoples have hated each other as enemies. Aristotle himself wrote: "Acquisition through war is a natural form of acquisition since it comprehends that lawful hunting down of men who, though born to obey, refuse to submit. Here then we have a natural form of acquisition which is part of domestic economy." (*Politics.* Bk. I, ch. iii, s. 23.)

Nevertheless by gradual stages a more peaceful intercourse between nations was established. To the state of perpetual war of each against all succeeded a state of affairs when during periods, more or less prolonged, peace alternated with armed conflict. Thanks to those periods of calm, more frequent intercourse between nations developed, encouraged and facilitated moreover by the advance in, and improvement of, communications. The preaching of the Gospel has had its share in offering a powerful contribution to the revival of the sense of the brotherhood of the human race and of the reciprocal rights and duties to which that brotherhood gives rise among peoples. In this way a juridical international order governing the mutual relations between States has been steadily elaborated.

The idea of universal common good, and accordingly of a society of all nations to co-operate in bringing it into existence, has taken even longer to impress itself upon the consciousness of men. Doubtless Christian philosophy has long been familiar with the concept of an international social life whose outline Saint Augustine was the first to draw and which was developed after his time by Saint Thomas, Vittoria, Suarez and many others; yet secular thought which effectively ruled the destinies of the peoples for long remained antagonistic to these opinions. Princes and their councillors adopted selfish State reasons as the norm of

their policy, while economic science clung to the mercantile theory whereby "one man's gain was another man's loss."

In spite of this, the facts have ended by overcoming even the most hardened prejudices. The interchange, ever more intensive, of ideas, services and goods of every kind has daily strengthened the natural solidarity of States and tightened ever closer their bonds of mutual interdependence from which in the future there is no possibility of escape.

To-day the order and prosperity of each nation is indissolubly bound to the order and prosperity of the rest. No State can now hope fully to discharge its duty towards those dependent upon it unless it can count on the more or less generous collaboration of other States, or be assured that the mutually planned efforts of the collectivity of States will result in general conditions favourable to order and universal peace, which constitute the international common good.

This universal common good which complies with the requirements of the social nature of man can only be the outcome of the ordered rational collaboration of all States. Once given the conditions which make the realization of that collaboration possible, it becomes the overwhelming duty of all States to work together to bring it to fruition. No nation may ignore this obligation. From thence on, all are interlinked by the bonds of a *de jacto* association enjoined by natural law. What remains then is to organize this association.

II. The Organization oj an International Society. It is not, however, sufficient that a necessary and well-defined objective—the universal common good—should be propounded for the co-operation of States. These States, aware of the necessity of that objective, should agree to take their share in working for its realization in order that the international society should find itself thereby fully established and capable of carrying out that mission which nature has assigned to it, nay which has been ordained by the Supreme Author of all things.

Indeed, as soon as the nations have taken cognizance of the necessity of the common good in whose realization they are each severally interested, they will, with more or less generosity, prove that they are ready to make their contribution to it. Hence it

is that we have observed them enter into many a political collaboration, adopt certain uniform rules of conduct and set up institutions concerned with international interests. Yet in so far as this co-operation is only given on grounds of mere benevolence and voluntarily, or for reasons of self-interest with no idea of strict obligation in justice, the benefits thereby conferred on the community of States will perforce remain limited in extent and precarious. Each nation will proportion its own contribution to its own interests and will consider itself free to withdraw that co-operation at any instant.

If the social life of the nations is to be in complete harmony with the designs of the Creator it must be organized juridically. Positive standards are required which shall define precisely the rights and duties of the associated nations and in a rational manner direct their common activities towards that collective end which it is their duty to bring into existence.

The social nature of man calls for this organization: his nature has sketched out the essential lines, but has not submitted a detailed plan. It is for human wisdom to decide upon the definite system of rules. This latter can, therefore, only be the result of an agreement arrived at amongst those interested, and accordingly the juridical organization of international life will have a contractual basis. This fact implies the intervention of man's free-will whose function it is important to define.

From what we have said of the natural characteristics of international society it follows that such a society forms no part of the free choice of those who preside over the destinies of nations, to say whether or not they shall involve their nations in the bonds of the community of peoples. International society cannot be looked upon as the outcome of a "social contract" in regard to which States may freely give or withdraw adherence. The existence of an international society is postulated by natural law, while it falls only to the lot of positive law, the product of the human will, to provide the indispensable machinery for the carrying out of its mission.

The very nature of this mission, moreover, restricts the free choice of men to well defined limits. The machinery set up must

correspond as exactly as possible to the end assigned to international society.

Finally—and it is here that the decisive part played by the free choice of men manifests itself—the best international instruments will remain useless so long as men fail to agree to allow them to operate in a loyal spirit and with no egoistic return to self-love. The *Code of International Ethics* of Malines (Article 217) states very truly: "It does not suffice to group States into a society and to endow the latter with machinery well devised for the functions given to it. It will be a lifeless body so long as there is no agreement of minds on the certain and indestructible principles which must govern international life, or union of wills in the fulfilment of the same ideal of justice and charity."

Yet this is particularly difficult to bring about since the satisfactory organization of international life and its harmonious development demand from the States participating therein duties and renunciations which strongly conflict with their ingrained traditions of complete independence and of absolute sovereignty.

We must now study the requirements of a rational organization of an international society.

III. The Requirements of a Society of States Rationally Organized. The existence of an international society implies, as it docs in every other kind of society, a common end proposed for the combined efforts of the associateci States, an authority empowered to co-ordinate and control that activity, and the duty of heads of member-States to submit to the dictates of that authority; finally it implies sanctions having for their object the overcoming of indifference or of the evil intentions of any recalcitrant associates.

The object proposed for the combined activity of the members can be stated shortly—the international common good. This latter contains two essential elements.

First of all there is the preservation of peace and international order thanks to which all the members will be able to discharge their duties towards their subjects without let or hindrance and in the enjoyment of their unquestioned rights.

This will be followed by the setting up of collective institu-

tions with the object of promoting the economic, social and cultural progress of humanity for the benefit of all the associated members.

International society will not perform its divine mission unless the actions of its members are effectively directed towards a common end by an authority universally recognized and obeyed. This authority, no less necessary than the international society itself, comes from God and derives from His sovereign will the right to command and to forbid. Positive human law must decide in whom the right to administer that authority properly resides and in what forms it shall be expressed. In this respect, and from a theoretical point of view, various systems may be considered. In point of fact, however, if we take into consideration the historic evolution of human society, the only practical solution is that supported by the Covenant of the League of Nations which has placed authority in the collectivity of associated States.

It is true that it is necessary according to this system to determine the conditions which the collectivity of the States must satisfy in order to assume a character genuinely binding; whether by a bare majority, a qualified majority or unanimity. This latter solution seems to us to imply the right of the *liberum veto* which is difficult to reconcile with an effective discharge of international authority. Unanimity might be put forward as a provisional measure well suited at the beginning to spare the susceptibilities of a nationalism as yet but ill-instructed in the true requirements of international order—*propter duritiam cordis;* but in our opinion it could not be embodied in the perfect organization of the society of States.

It is here that wc arrive at the most delicate point in the problem wc are discussing.

The idea of society is inseparable from the idea of social authority and this latter in its turn evokes the idea of a subordination and a submission which are utterly incompatible with that complete independence and absolute authority which hitherto modern States have constantly claimed.

To what other conclusion can wc come than that the claims of modern States are unjustifiable and that there does not exist, nor can there exist complete independence and absolute sover-

eignty for the State? As members of a natural society of nations they are under a positive duty to make their contribution to the good of the community and must comply with the commands issued by the social authority which has, within the sphere of its competence, the care of the common good. In case of need they arc in duty bound to subordinate and even to sacrifice their individual interests to this common good.

In any case the sacrifice that this necessary duty implies is more apparent than real.

That sacrifice in no wise lessens the sovereignty which every State must claim in its own territory and in the name of its own subjects. International authority is only competent to control the activities of its members for the greater good of the community, and it is no part of its duty to take cognizance of their individual interests, nor of the manner in which they propose to meet them.

Furthermore no one State can hope to secure by its own resources that national prosperity which represents for its subjects the possession of a "complete good of human life." The endeavours it puts forth to this end will bear their full fruit only when there is peace, general prosperity and order. It is accordingly in the very special interests of its subjects that a State is working when it offers its loyal collaboration to the collective action of international society.

In exchange for this necessary co-operation for the international common good, each member must be assured of the assistance of the society guaranteeing the peaceful enjoyment of its rights and its legitimate freedom. Recourse to violence accordingly becomes unnecessary; conciliation and arbitration, carried out by impartial tribunals, take the place of war in the settling of the unavoidable disputes which might arise to divide nations; and peace—that most precious gift of God, *pacem Dei munus pulcherrimum* (Benedict XV)—a lasting and a fruitful peace will open up the way to ever more splendid conquests of civilization. This, however, presupposes in all the members of the international society a genuine and constant will to agree, to respect the rights of others and international law. But the will of nations no less than that of individuals is weak and it can fail to

fulfil its duties and refuse to acknowledge the judgments of international authority. This latter must then be armed if it is to impose its will on a recalcitrant State, if it is to compel respect for the rights of others and for the demands of international justice. This raises the thorny problem of sanctions.

While not overlooking the many difficulties to be faced in this solution, we hold that it is not possible to envisage a rational or effective organization of a League of Nations without giving a proper place to sanctions. No authority of any kind will be respected if it has no means of enforcing obedience. He who refuses to submit to the force of law must submit to the compulsion of force.

It is true that it has been objected that there would be a contradiction if violence were placed at the disposal of law, if resort were had to war to bring about the reign of peace and if it were desired to establish order under cover of that disorder which is always let loose when resort is had to arms. This objection is not apposite. There is no question of basing the order of law on a reign of force, but of defending law against the attacks of unjust violence. Far from overturning the order of peace, force, placed at the disposal of law unjustly attacked, brings an end to disorder and restores peace broken by the malice of an unjust aggressor. This was the sense in which Benedict XV understood sanctions and in his message of peace of August 1st, 1917 (i.e., Letter to the leaders of the belligerent peoples) provided for sanctions to be taken against any State which either refused to submit international questions to arbitration, or refused to agree to the decisions of such arbitration, as an indispensable corollary to a general convention of arbitration and conciliation.

This does not alter the fact that the application of sanctions lays very heavy burdens and sacrifices upon a State not directly concerned with the conflict. This is the consequence of international solidarity and of the duties it brings in its train, and no State may lawfully escape such obligations without renouncing all allegiance to international society. On the other hand one should not forget that these obligations are incumbent on all and that a mutual guarantee is in question from which everyone

will in fact benefit. Moreover, the associated States will have to agree to practical decrees and to a machinery of sanctions which will take due account of the special conditions of each member, of his capacity for action and the risks to which he will be exposed when participating in the general action; and they will apportion the contribution of each State according to its interest in the re-establishment of order unrighteously disturbed. From this point of view regional pacts will offer much greater hopes of success than would a general plan of action applied indiscriminately to all conflicts and demanding an equal intervention from all the associates.

Let us add in conclusion that, whatever may be the system adopted by the States, the effective application of sanctions will be found to be less necessary the more the members of the international society are determined to keep their promises in this respect. In point of fact sanctions should have above all a deterrent effect. The fear of collective restraint which will without fail be evoked against it at every violation of order and international peace should prove an effective check on the State tempted to abuse its power. On the other hand, a State will give free rein to its boldness if it has reason to expect that the selfish indifference of its associates will allow it to enjoy the fruits of its crime with impunity.

IV. Conclusion. Such is the Catholic teaching regarding international life together with the duties it imposes on the various States and the rights it confers. Catholics must accustom themselves to consider the weighty problems of to-day in the light of these principles. Of all these problems there is one which takes precedence over all others, namely that of the existing League of Nations.

We do not think that Catholic opinion has given that consideration to the thought which inspired the Pact of 1919 which it merited or brought to its realization that loyal co-operation which was its due. There are a number of explanations, of which we refuse to accept an excuse, for this failure.

Admittedly it was not an ideology unreservedly Catholic which directed the construction of the edifice at Geneva. Could it be otherwise in a world of States which for several centuries has

lost the benefits of religious unity? Catholics should not find in this fact a proper motive for ignoring or looking sourly at the League of Nations. Does not morality compel them to submit loyally to their national governments even when these are neutral or purely secular? It cannot be questioned moreover that the existing League of Nations has been founded on a basis of sound principles of natural philosophy which Catholic moral teaching certainly ennobles and perfects, and which it is careful not to repudiate. Still more it is impossible to overlook the fact that in its essentials the Pact agrees with the general plan drawn up by Benedict XV as early as 1917 for an international society, whose urgent need he stressed.

The work of Geneva is not perfect and has not succeeded in securing the adherence of all the nations or in preventing certain alarming desertions, while on more than one occasion it has suffered severe rebuffs. These weaknesses and deficiencies are the outcome of certain constitutional defects which must be remedied and are even more often the result of the failure of good-will in the leaders of the associated States: for this the institution itself cannot be held to blame. No one asks that the social bonds between citizens in any given State should be loosed because that State has failed on occasion to defend the maintenance of the rights and liberties of its subjects. Neither, therefore, may States refuse their allegiance to the international society because the latter has not succeeded, more often than not through their own fault, in preserving on every point order and peace amongst the nations.

Let those who systematically denounce the League of Nations weigh carefully their heavy responsibility.

The existence of an international society is in accord with God's design as a result of man's natural sociability. It is for human wisdom to organize that society. Immense efforts have been directed to this end and Catholic public opinion has unfortunately not taken its proper share. If as a result of this continued indifference, or—and that would be more serious still—as a result of the hostility of that same Catholic opinion, this noble endeavour were to suffer shipwreck, the world would inevitably collapse into an anarchy of individualism just as disastrous in

the international order as it is in the sphere of the national community. It would require further wars and further upheavals worse than the former to persuade the world to take up again the work it had so unhappily abandoned. And when it had so decided, it could but rebuild on the same foundations as before since the organization of a society cannot be conceived apart from a *common end* to which the members must subordinate their private interests, an *authority* empowered to direct the activities of the members to that end, and finally *sanctions* calculated to defend law and order against every assault of violence and injustice.

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Chapter XIX

NATIONAL AND INTERNATIONAL RELATIONS

Extracts from the Pastoral Letter of the American Hierarchy, February, 1920

National Conditions

Our country had its origin in a struggle for liberty. Once established as an independent Republic, it became the refuge of those who preferred freedom in America to the conditions prevailing in their native lands. Differing widely in culture, belief, and capacity for self-government, they had as their common characteristics the desire for liberty and the pursuit of happiness. Within a century, those diverse elements had been formed together into a nation, powerful, prosperous, and contented. As they advanced in fortune, they broadened in generosity; and today, the children of those early refugees are restoring the breath of life to the peoples of Europe.

These facts naturally inspire us with an honest pride in our country, with loyalty to our free institutions and confidence in our future. They should also inspire us with gratitude to the Giver of all good gifts, who has dealt so favorably with our nation: "He hath not done in like manner to every nation" (Ps. cxlvii). Our forefathers realized this, and accordingly there is evident in the foundation of the Republic and its first institutions, a deep religious spirit. It pervades the home, establishes seats of learning, guides the deliberation of law-making bodies. Its beneficent results are our inheritance; but to enjoy this and transmit it in its fullness to posterity, we must preserve in the hearts of the people the spirit of reverence for God and His law, which animated the founders of our nation. Without that spirit, there is no true patriotism; for whoever sincerely loves his country, must love it for the things that make it worthy of

the blessings it has received and of those for which it may hope through God's dispensation.

We are convinced that our Catholic people and all our citizens will display an equally patriotic spirit in approaching the tasks which now confront us. The tasks of peace, though less spectacular in their accomplishment than those of war, are not less important and surely not less difficult. They call for wise deliberation, for self-restraint, for promptness in emergency and energy in action. They demand, especially, that our people should rise above all minor considerations and unite their endeavors for the good of the country. At no period in our history, not even at the outbreak of war, has the need of unity been more imperative. There should be neither time nor place for sectional division, for racial hatred, for strife among classes, for purely partisan conflict imperiling the country's welfare. There should be no toleration for movements, agencies, or schemes that aim at fomenting discord on the ground of religious belief. All such attempts, whatever their disguise or pretext, are inimical to the life of our nation. Their ultimate purpose is to bring discredit upon religion, and to eliminate its influence as a factor in shaping the thought or the conduct of our people. We believe that intelligent Americans will understand how foreign to our ideas of freedom and how dangerous to freedom itself, are those designs which would not only invade the rights of conscience but would make the breeding of hatred a conscientious duty.

Care for Immigrants

Such movements are the more deplorable because they divert attention from matters of public import that really call for improvement, and from problems whose solution requires the earnest co-operation of all our citizens. There is much to be done in behalf of those who, like our forefathers, come from other countries to find a home in America. They need an education that will enable them to understand our system of government and will prepare them for the duties of citizenship. They need warning against the contagion of influences whose evil results are giving us grave concern. But what they chiefly need

is that Christian sympathy which considers in them the possibilities for good rather than the present defects, and, instead of looking upon them with distrust, extends them the hand of charity. Since many of their failings are the consequence of treatment from which they suffered in their homelands, our attitude and action toward them should, for that reason, be all the more sympathetic and helpful.

Clean Politics

The constant addition of new elements to our population obliges us to greater vigilance with regard to our internal affairs. The power of assimilation is proportioned to the soundness of the organism; and as the most wholesome nutriment may prove injurious in case of functional disorder, so will the influx from other countries be harmful to our national life, unless this be maintained in full vigor. While, then, we are solicitous that those who seek American citizenship should possess or speedily attain the necessary qualifications, it behooves us to see that our political system is healthy. In its primary meaning, politics has for its aim the administration of government in accordance with the express will of the people and for their best interests. This can be accomplished by the adoption of right principles, the choice of worthy candidates for office, the direction of partisan effort toward the nation's true welfare and the purity of election; but not by dishonesty. The idea that politics is exempt from the requirements of morality, is both false and pernicious; it is practically equivalent to the notion that in government there is neither right nor wrong, and that the will of the people is simply an instrument to be used for private advantage.

The expression or application of such views accounts for the tendency, on the part of many of our citizens, to hold aloof from politics. But their abstention will not effect the needed reform, nor will it arouse from their apathy the still larger number who are so intent upon their own pursuits that they have no inclination for political duties. Each citizen should devote a reasonable amount of time and energy to the maintenance of right government by the exercise of his political rights and privileges.

He should understand the issues that arc brought before the people, and co-operate with his fellow-citizens in securing, by all legitimate means, the wisest possible solution.

Public Office and Legislation

In a special degree, the sense and performance of duty is required of those who are entrusted with public office. They are at once the servants of the people and the bearers of an authority whose original source is none other than God. Integrity on their part, shown by their impartial treatment of all persons and questions, by their righteous administration of public funds and by their strict observance of law, is a vital element in the life of the nation. It is the first and most effectual remedy for the countless ills which invade the body politic and, slowly festering, end in sudden collapse. But to apply the remedy with hope of success, those who are charged with the care of public affairs, should think less of the honor conferred upon them than of the great responsibility. For the public official above all others, there is need to remember the day of accounting, here, perhaps, at the bar of human opinion, but surely hereafter at the judgment seat of Him whose sentence is absolute: "Give an account of thy stewardship" (Luke xvi, 2).

The conduct of one's own life is a serious and often a difficult task. But to establish, by the use of authority, the order of living for the whole people, is a function that demands the clearest perception of right and the utmost fidelity to the principles of justice. If the good of the country is the one true object of all political power, this is pre-eminently true of the legislative power. Since law, as the means of protecting right and preserving order, is essential to the life of the State, justice must inspire legislation, and concern for the public weal must furnish the single motive for enactment. The passing of an unjust law is the suicide of authority.

The efficacy of legislation depends on the wisdom of laws, not on their number. Fewer enactments, with more prudent consideration of each and more vigorous execution of all, would go far towards bettering our national conditions. But when

justice itself is buried under a multiplicity of statutes, it is not surprising that the people grow slack in observance and eventually cease to respect the authority back of the laws. Their tendency then is to assume the function which rightly belongs to public executive power, and this they are more likely to do when aroused by the commission of crimes which, in their opinion, demand swift retribution instead of the slow and uncertain results of legal procedure. The summary punishment visited on certain offences by those who take the law into their own hands, may seem to be what the criminal deserves; in reality, it is a usurpation of power and therefore an attack upon the vital principle of public order. The tardiness of justice is surely an evil, but it will not be removed by added violations of justice, in which passion too often prevails and leads to practices unworthy of a civilized nation.

International Relations

Though men are divided into various nationalities by reason of geographical position or historical vicissitude, the progress of civilization facilitates intercourse and, normally, brings about the exchange of good offices between people and people. War, for a time, suspends these friendly relations, but eventually it serves to focus attention upon them and to emphasize the need of readjustment. Having shared in the recent conflict, our country is now engaged with international problems and with the solution of these on a sound and permanent basis. Such a solution, however, can be reached only through the acceptance and application of moral principles. Without these, no form of agreement will avail to establish and maintain the order of the world.

Since God is the Ruler of nations no less than of individuals, His law is supreme over the external relations of States as well as in the internal affairs of each. The sovereignty that makes a nation independent of other nations, does not exempt it from its obligations toward God; nor can any covenant, however shrewdly arranged, guarantee peace and security, if it disregard the divine commands. These require that in their dealings with one another, nations shall observe both justice and charity. By

the former, each nation is bound to respect the existence, integrity and rights of all other nations; by the latter, it is obliged to assist other nations with those acts of beneficence and good will which can be performed without undue inconvenience to itself. From these obligations a nation is not dispensed by reason of its superior civilization, its industrial activity or its commercial enterprise: least of all, by its military power. On the contrary, a State which possesses these advantages, is under a greater responsibility to exert its influence for the maintenance of justice and the diffusion of good will among all peoples. So far as it fulfils its obligation in this respect, a State contributes its share to the peace of the world; it disarms jealousy, removes all ground for suspicion and replaces intrigue with frank co-operation for the general welfare.

The growth of democracy implies that the people shall have a larger share in determining the form, attributions, and policies of the government to which they look for the preservation of order. It should also imply that the calm, deliberate judgment of the people, rather than the aims of the ambitious few, shall decide whether, in case of international disagreement, war be the only solution. Knowing that the burdens of war will fall most heavily on them, the people will be slower in taking aggressive measures, and, with an adequate sense of what charity and justice require, they will refuse to be led or driven into conflict by false report or specious argument. Reluctance of this sort is entirely consistent with firmness for right and zeal for national honor. If it were developed in every people, it would prove a more effectual restraint than any craft of diplomacy or economic prudence. The wisest economy, in fact, would be exercised by making the principles of charity and justice an essential part of education. Instead of planning destruction, intelligence would then discover new methods of binding the nations together; and the good will which is now doing so much to relieve the distress produced by war, would be so strengthened and directed as to prevent the recurrence of international strife.

One of the most effectual means by which States can assist one another, is the organization of international peace. The need of this is more generally felt at the present time when the meaning

of war is so plainly before us. In former ages also, the nations realized the necessity of compacts and agreements whereby the peace of the world would be secured. The success of these organized efforts was due, in large measure, to the influence of the Church. The position of the Holy See and the office of the Sovereign Pontiff as Father of Christendom, were recognized by the nations as powerful factors in any undertaking that had for its object the welfare of all. A "Truce of God" was not to be thought of without the Vicar of Christ; and no other truce could be of lasting effect. The Popes have been the chief exponents, both by word and act, of the principles which must underlie any successful agreement of this nature. Again and again they have united the nations of Europe, and history records the great services which they rendered in the field of international arbitration and in the development of international law.

The unbroken tradition of the Papacy with respect to international peace, has been worthily continued to the present by Pope Benedict XV. He not only made all possible efforts to bring the recent war to an end, but was also one of the first advocates of an organization for the preservation of peace. In his Letter to the American people on the last day of the year, 1918, the Holy Father expressed his fervent hope and desire for an international organization, "which by abolishing conscription will reduce armaments, by establishing international tribunals will eliminate or settle disputes, and by placing peace on a solid foundation will guarantee to all independence and equality of rights." These words revealed the heart of the Father whose children are found in every nation, and who grieves at the sight of their fratricidal struggle. That they were not then heeded or even rightly understood, is but another evidence of the degree to which the passions aroused by the conflict had warped the judgment of men. But this did not prevent the Pontiff from intervening in behalf of those who were stricken by the fortunes of war, nor did it lessen his determination to bring about peace. To him and to his humane endeavor, not Catholics alone, but people of all creeds and nationalities, are indebted for the example of magnanimity which he gave the whole world during the most fateful years of its history.

Chapter XX

THE ETHICS OF WAR

(i) *Nature and Lawlessness of* JFar[1]

137. War is an armed struggle which equal and sovereign societies engage in between themselves in order that what they consider to be their right or interest may prevail.

It is *offensive* from the jxnnt of view of the State which begins hostilities; it is *defensive* from that of the State which has recourse to armed force in order to repel an attack. A war of *intervention* is one waged by a third party State which sides with a belligerent already engaged in battle and gives it armed help.

War must not be confused with certain acts of force used by States in difficult diplomatic negotiations in order to bring pressure to bear on the other party and to make it accept its demands more rapidly; for example, reprisals, seizures, temporary occupation of territory, peaceful blockade, embargo. The method is a dangerous one, and runs the risk of developing into actual warfare; "peaceful restraint" is very often nothing else than an hypocritical euphemism to disguise a definite act of war, especially when it is exercised by a powerful State.

138. By the evils it inflicts on the territories on which it is waged, the confusions it brings about in international relations, the setback it inevitably causes to morality and civilization, war is always a terrible calamity and therefore cannot be considered as the normal means of settling disputes between nations. It should not find place in a perfectly-organized international society; in the absence of such organization, the peaceful methods

[1] Entire Chapter reprinted with the permission of the Catholic Social Guild from /l *Code of International Ethics.*

we have discussed above must always be preferred. Nevertheless war may be lawful in certain extreme cases.

139. In a society of independent States which have not yet succeeded in placing a supra-national authority over themselves, it is above all necessary that the order of Right and justice should prevail in order to ensure peace, which is an indispensable condition of prosperity and an essential clement of the common good. If this order is seriously threatened by the perverse will of one of the associates and peaceful methods are unable to maintain it, all that the injured State can do is to take the protection of its rights, or the redress of the injury suffered, into its own hands. Thus reason justifies a defensive war by which a State endeavours to repel an unjust aggression, an offensive war by which it seeks the restitution of an essential right, and a war of intervention by which an allied or friendly power gives armed assistance to a belligerent in similar circumstances.

Even in a perfectly organized international society, recourse to arms must be considered as the ultimate means left to the international authority or the community of nations to overcome a State which obstinately disregards the law and disturbs international order.

140. The commandment of the Decalogue, "Thou shalt not kill," and the Gospel law which prescribes non-resistance to violence and the pardon of injuries, have been quoted to prove the unlawfulness of war. This objection is based on a wrong interpretation of this double commandment.

The commandment "Thou shalt not kill" does not deprive individuals of the right of legitimate self-defence against an unjust aggressor. Nor does it do so, a *fortiori,* in the case of societies.

Nor does the evangelical command not to resist evil and to pardon enemies imply the absolute repudiation of every war. Charity may command us to acquiesce without murmuring to tlie personal wrongs wc have suffered; it does not in any way dispense public authority from its very definite duty of defending the interests and rights of the community under its care from all unjust attacks. As for the pardon of injuries and the charity we must show even towards our enemies, they are quite com-

patible with the conditions of a just war. "These precepts concerning patience," wrote St. Augustine, "ought to be always retained in the habitual discipline of the heart., and the benevolence which prevents the recompensing of evil for evil must be always fully cherished in disposition. At the same time, many things must be done in correcting with a certain benevolent severity, even against their own wishes, men whose welfare rather than their wishes it is our duty to consult. . . . And on this principle, if the commonwealth observe the precepts of the Christian religion, even its wars themselves will not be carried on without the benevolent design that, after the resisting nations have been conquered, provision may be more easily made for enjoying in peace the mutual bond of piety and justice. For it is a good thing to be vanquished, if thereby one loses the possibility of doing evil." (*Ep.* 138 *ad Marcellinum*. Eppstein, *C.T.*, pp. 76-7.)

As St. Thomas Aquinas justly remarks, "The pardon of injuries one has suffered oneself is an act of perfection if to do so is useful to others; but to tolerate patiently injuries suffered by others is an act of imperfection and even a vice if it is possible to resist the aggressor." (*S.T.*, IIa, Ilae., Q. 188, art. 3, ad 1.)

Scripture and tradition, far from pronouncing an absolute condemnation of war, contain many passages affirming the lawfulness of a recourse to violence, especially when it is the only way to secure respect for justice and right.

141. In the face of the unanimous testimony of Christian tradition, certain pacifists will agree that in the past war may have been lawful. But they pass an absolute condemnation on modem warfare in view of the present development of armament technique, its unequalled destructive power, and the increased solidarity of nations which causes the smallest local dispute to have world-wide repercussions.

Even when restricted to modern warfare, the intransigence of such pacifism is indefensible.

First of all, it is by no means certain that modem wars are more terrible than the conflicts of the past, which made no distinction between the battle-front and back areas, devastated huge territories, delivered the civilian population to the exactions

and violence of a mercenary soldiery which often changed sides but ever remained grasping and unruly, and brought with them famine, plagues and other nameless horrors.

It must however be admitted that the system of armed nations and technical progress have made modern combats more murderous than those of former times. This must be remembered when determining the lawfulness of recourse to arms, since it is only allowed, as we shall see later, when the advantage expected outweighs the inevitable evils which must result. It obliges the champions of right more urgently than ever to exhaust all peaceful means of settlement before taking up arms.

The more or less deadly effect of methods of warfare only affects the forms of war and not its essential nature, and is not sufficient in itself to alter its morality.

Furthermore, a refusal to allow Right the assistance of force in any circumstance simply allows force to take precedence over Right with impunity and delivers up humanity to the far more serious disorder of moral violence.

142. The very legitimate condemnation of the inevitable horrors of war must not lead one to include in its reprobation all belligerents without distinction. Only those deserve it whose unjustice has brought about the commencement of hostilities; it cannot affect those who use force in perfect conformity with the demands of justice.

143. Catholic theologians and moralists, whilst refusing to condemn war absolutely, arc careful to lay down the precise conditions with which a war must comply in order to remain within the limits of justice. They have constantly and unanimously taught that for a war to be lawful, it must

(a) Have been declared by a legitimate authority.

(b) Have a just and grave cause, proportioned to the evils it brings about.

(c) Only be undertaken after all means of peaceful solution of the conflict have been exhausted without success. (See nos. 127-136.)

(d) Have serious chances of success. (See No. 157.)

(e) Be carried out with a right intention.

It is also necessary that moderation should characterize the

conducting of hostilities and should keep the demands of the victor within the limits of justice and charity.

The following paragraphs will be devoted to a detailed analysis of these conditions.

(ii) *Legitimate Authority*

144. The purpose of war is to maintain or assert the right of the community against external aggression. In the absence of a juridically constituted international authority, only those whose duty it is to defend and promote the legitimate interests of the social body can declare it. "The natural order of mortal things, ordained for peace, demands that the authority for making war and inflicting punishments should rest with the ruler. In obeying warlike commands soldiers should have an eye to peace and the common good." (St. Augustine, *Contra Faustum,* ch. Ixxv. Eppstein, *C.T.,* pp. 69-70.)

145. Several modern constitutions reserve the right of declaring war to the body of national representatives alone. The latter, however, nearly always finds itself faced with a definite situation and with the results of previous diplomatic deals which leave it practically no freedom of decision. The responsibility for the war which it is thus compelled to declare must be shared by the first instigators of the trouble, and by the unskilful or unbending negotiators who were unable or unwilling to solve it peacefully.

(iii) *Just Cause*

146. Christian morality only accepts war as an element of force at the service of Right. The defence of an essential right which is unjustly attacked is the sole justifying cause of a defensive war; the asserting of an essential right unjustly denied, that of an offensive war; and the helping of a belligerent who has a just cause for war, that of a war of intervention. In each of these cases, the re-establishment of order, and not its disturbance, is the purpose of recourse to arms. "War is waged in order that peace may be obtained." (St. Augustine, *Ep.* 189 *ad Bonijacium,* VI.)

Since the Sovereign should use his power only for the sake of the general interests of the community, war cannot be under-

taken for private ends or for the interests of a class or party.

Nor has the Sovereign the right to compel his subjects to sacrifice their goods and lives for purely personal or dynastic reasons of interest or prestige.

147. Since in an actual case the contradictory claims of two contending parties cannot be equally right, it follows that both belligerents cannot have at the same time a just cause for war.

"It is the injustice of the enemy which forces the wise man to make just wars." (St. Augustine, *De Civ. Dei,* Bk. XIX, ch. vii.) War can therefore never be objectively just on both sides, though subjectively each of the parties may believe they possess a just cause for war.

On the other hand it may happen that war may be objectively unjust on both sides, neither belligerent having a just cause for war.

In doubtful cases, when it is not clear on which side right is to be found, the conflict should never be settled by force of arms; it should be dealt with by the peaceful methods of conciliation and arbitration.

148. A State which has violated an essential right of another State and refuses to furnish the just reparation which is demanded, has no right to defend itself against the other party which has exhausted in vain all peaceful methods and resorts to arms in order to obtain justice.

149. Justice sometimes changes sides in the course of negotiations or hostilities. For example this may happen when a State which has a good and just cause for war refuses all sincere and reasonable offers of reparation. It can only use force to obtain satisfaction for the injustice it has suffered. Once this aim has been attained by the submission of the enemy, it cannot start or continue hostilities without being guilty in its turn of unjust aggression, and the State which it attacks can offer legitimate resistance.

150. It has been argued that it is useless to require the possession of a just cause to authorize war. "The ability to assign responsibility for aggression is always about the last thing to emerge, and belongs to the historian who studies and writes fifty years after a war and never to the politician who lives through

the beginnings of a war." (J. Ramsay Macdonald, speech of September 4th, 1924, to the Assembly of the League of Nations.)

Without being quite so sceptical, one must admit that there exist some very intricate situations to which it would be difficult to give a safe and certain juridical interpretation. On the other hand, both rulers and ruled are prone to deceive themselves, under the influence of passion, as to the nature and extent of their rights. In the past these circumstances may have more or less excused the good faith of certain belligerents who had recourse to arms rather too readily. But nowadays, owing to the development of peaceful methods of conciliation and arbitration, we possess a very efficacious criterion for establishing the responsibility of the various parties concerned. At least the party which has rejected from the first all arbitral or judicial procedure which could have established clearly the demands of Right, and pretends to settle the conflict by armed force alone, can never consider itself as authorized to declare war.

151. Other reasons apart from justice have been sought to legitimize the use of force, such as common consent of the belligerents, the need of the State, the prevention of future aggression. These reasons have no foundation in ethics, which considers that only the defence of an essential right can be a legitimate cause of war.

152. In the past some authors have maintained that, failing a just cause, war could become legitimate by the mere agreement of the parties concerned, who decide to leave the settlement of their quarrel to the fate of arms. This idea is no longer accepted by modern jurists, but it is still prevalent among many people who wish to see the conflicts which divide nations settled by force.

War, thus conceived as a simple exercise of force, may not in itself be a violation of commutative justice (the vanquished party having given up his rights in advance) or imply the obligation to make good the damage caused. But it is none the less shameful on the part of the rulers who unjustly sacrifice the lives of their subjects and the peace of international society for the sake of their pride or ambition.

153. Nor does the need of the State, by which is generally un-

derstood its interest or necessity, justify a war which has been declared in violation of right. To allow interest to take precedence over right would amount to confusing expediency with justice, denying justice itself, and shaking the very foundations of the order of human societies. Nor is necessity a more valid excuse; a State can only invoke it when it is equivalent to its right to existence, and thus becomes a just cause of war. (See No. 40.)

154. There also exists a theory of "preventive war" according to which the State has a right to attack on preventive grounds another State which is still inoffensive and peaceful, but which may be led at a future date, on becoming aware of its increasing strength, to commit an unjust aggression. The war which is thereupon declared against it to ward off this danger is offensive from a military standpoint, but politically "defensive" and could thus claim a legally just cause.

The doctrine is indefensible, since it would leave the way open to arbitrariness and legitimate every kind of abuse.

A preventive war against a possible aggressor is iniquitous of its very nature. A ruler who would claim to regulate his policy according to a still uncertain future could allow himself every kind of surmise, and would have no difficulty in imagining a distant menace which would give a plausible pretext to his ambitious or rapacious aims. Peace and international order would soon disappear under a régime which allowed recourse to "offensive-defensive" war for the most imaginary grievances.

Only a very real and imminent menace—such as a systematically aggressive policy, an unusual concentration of troops, etc.—can authorize a State which considers that it is menaced thereby, to demand the cessation of these suspicious activities, and, in case of refusal, to impose it by force.

(iv) *A Grave and Proportionate Cause*

155. The justice of the cause for which a belligerent takes up arms does not in itself suffice to legitimate his decision. Right reason further demands that the importance of this cause should be proportioned to the gravity of the evils which inevitably follow upon a war.

156. It may sometimes happen that, owing to the circumstances which accompany it, a quarrel may become far graver than the trivial or unimportant incident which brought it about. In that case, the State which persistently refuses to grant the small reparation claimed greatly aggravates its original fault. Likewise an injury sustained by the ruler may, in consequence of an obstinate refusal to make reparation, involve the honour of the whole nation represented by its head.

In minor conflicts, which do not immediately involve any of its vital interests, a nation will often find occasion to practise that charity which the law imposes on societies as well as on individuals. Secure in the self-evidence of its rights, it will know how to temper with a large hearted tolerance the demands of absolute justice, and will thus open the way, more surely than by arms, for a sincere and lasting reconciliation.

(v) *A Well-Grounded Hope of Success*

157. Even when it has a just cause for war, a State cannot engage upon or accept war which will obviously be disastrous for it and thereby worsen the injustice for which it sought redress. Under these conditions it would be useless to hope for a victory which would counterbalance the sacrifices imposed on its subjects.

In actual fact, however, it is very difficult to predict with sufficient certainty the results of a war, however unequal the chances of the belligerents may seem to be. Divine Providence often confounds the most objective human calculations; interventions may suddenly arise, which upset the initial balance of forces.

On the other hand, a higher obligation—that of respecting one's plighted word, of defending the higher values of religion and civilization, etc.—may sometimes lead to choosing an heroic defeat instead of an inglorious capitulation. The nations which have been martyrs to their duty render a supreme testimony to Right which echoes throughout the centuries and keeps humanity faithful to the cult of honour and justice.

(vi) *Concern for the International Common Good*

158. In weighing the legitimate advantages he expects from war, and the various evils which inevitably follow upon it, the just belligerent must take into account the heavy load of suffering and ruin which the conflict will impose upon other nations, both upon those whose military help he expects and upon the neutrals who will feel the painful repercussions of the struggle. This comparison will often reveal such a disproportion between the fruits of victory and the price which the whole of humanity has to pay, that it will be a duty of charity to forgo the just reparation rather than to expose the world to a dreadful catastrophe.

(vii) *War, the Ultimate Argument of Kings*

159. "Only under compulsion and reluctantly should one come to the necessity of war," wrote Vittoria. *(De jure belli,* 467. 60. Eppstein, *C.T.,* p. 106.) War is an instrument which States are allowed to use, in certain circumstances, in order to enforce the respect of Right on those who would wish to disregard it. But it is a terrible instrument, which should be used only when all other means have failed. War will always remain the ultimate argument of kings; *ultima ratio regum.* Henry of Ghent has expressed this very well: "There arc two ways of combatting: by discussion or by violence; the first being peculiar to man and the second to wild animals, one should only have recourse to the latter when the former is of no avail." *(Quodlib.* XV., q. XVI.) (See above, Nos. 126-136.)

(viii) *A Right Intention*

160. As in every other human action, war, which is legitimate in itself, may be vitiated by the wrong intention of the one who wages it. That is why, according to the teaching of St. Thomas *(Summa Theologica,* IIa, Hae, q. xl, art. 1) "the intention of those who make war should be a right one, namely that good should be promoted and evil avoided. Thus St. Augustine says that the true adorers of God regard those wars as peaceful which are not undertaken out. of cupidity or cruelty, but arc waged for

the sake of peace, so that the wicked may be punished and the good assisted."

And St. Thomas concludes that "even though the war has been declared by a competent authority and for a just cause, it may become unlawful by reason of the wrong intention of the one who wages it. For St. Augustine says that the desire to harm, the cruelty of vengeance, a warlike soul enemy to all peace, the fury of reprisals, the lust of domination, and similar things, must be condemned in war."

161. This right intention, demanded by the moralists as an essential condition of a legitimate war, may easily agree with other motives which are more interested, but still in conformity with right and reason.

IV. — The Conduct of Hostilities

(i) *General Principle*

162. Even under the state of violence constituted by war, the moral law keeps all its rights, and its precepts continue to govern all the acts of the belligerents.

These precepts in actual fact can be summed up in a few rules of very wide application, which need more positive definition if they are to govern effectively the conducting of war. In every age nations have attempted to do this. First of all custom, then later on pacts and bi-lateral treaties, and finally general conventions, have progressively worked out the set of rules codified by the Law of Nations under the title of "laws of war."

All belligerents are bound to conform their acts of war to these laws. "Even between enemies," wrote St. Ambrose, "certain rights and conventions must be respected" *(De officiis,* Bk. 1, ch. 29).

These rights have considerably helped to attenuate the original horrors of war, and any State which disregarded them would be guilty of a crime against humanity.

163. The force of passion unleashed by war too often leads belligerents to break these protective laws. Do these breaches in turn authorize the enemy, by way of reprisals, to free itself from the rules which limit its liberty of action?

If one of the parties indulges in practices forbidden by the accepted laws of war, the other is quite entitled to apply the law of retaliation, provided the acts of reprisal do not violate the natural law. But no violation of any prescription of positive law by one of the belligerents will ever entitle the other to free himself of all the laws of war and revert to the most cruel methods of primitive barbarism.

(ii) *The Declaration of War*

164. We have seen that war is only allowed against an unjust State which obstinately persists in its wrong-doing. Before any forcible action is taken against the disturber of right order, time should be given him to repent and to make reparation for the damage he has caused. The original incident should be made the subject of preliminary negotiations, proposals of conciliation and arbitration, etc. If all efforts to solve the dispute peacefully fail owing to the obstinacy of the culprit, a solemn warning should inform him that the hour of diplomatic negotiations is over and that he has now to face his responsibilities. Hostilities cannot commence "without a previous and unequivocal warning, which shall take the form either of a declaration of war, giving reasons, or of an ultimatum with a conditional declaration of war." (Second Hague Conference, 1907. *Convention relative to tice commencement of hostilities.)* It goes without saying that, in order to safeguard the last remaining chances of peace, there should be a reasonable delay between the notification and commencement of hostilities.

(iii) *The Acts of* TFar

165. In answer to the question, "what is permissible against enemies in a just war?" Vittoria replies that "In a just war, one has the right to do everything that is necessary for the defence of the public good." *(De jure belli,* No. 15.) But according to the great teacher of Salamanca—as can be seen from the context —this right is limited by the demands of morality and natural law.

166. The needs of warfare will never allow belligerents to commit actions which are wrong in themselves, such as treason, the

breaking of solemn oaths, assassination, slanderous charges, etc. The end does not justify the means, and no advantage, however great, must be gained at the expense of a violation of the moral law. The methods used by a belligerent to discover the secrets of the enemy should be judged in the light of the same principles.

167. Morality also forbids brutality and useless cruelty. No doubt "war is war" and cannot be undertaken without destruction, bloodshed, and the loss of human life. The just belligerent can cause these inevitable evils to his adversary, but only to the extent needed to curb his wrongful obstinacy. To overstep these bounds would be a violation of justice and charity.

168. Some have been sceptical enough to say that war, being essentially inhuman, cannot be made more humane. Others say that on the whole the most humane type of war is a relentless one which, by the terror it inspires, promptly breaks the enemy's resistance. All this is pure sophistry which Christian morality cannot countenance.

War is a struggle between men, not between wild beasts bent on mutual destruction; it is therefore something essentially human and subject to the laws of humanity. The just belligerent still considers his enemies as creatures made to the image of God who, in spite of their wrongs, are still entitled to his respect and love.

Since he is compelled to use force and violence against them, he will only do so to the extent required by the rightful cause he has undertaken to defend. These ethical requirements have been sanctioned by the positive law of nations. Article 22 of the Regulations respecting the law and customs of war on land adopted at The Hague in 1907, expressly says that "the rights of belligerents to adopt means of injuring the enemy are not unlimited." This principle was unanimously adopted by all the States represented.

On the other hand, it is extremely doubtful whether the cruel and implacable severity of a belligerent would promptly disarm a terrorized enemy. On the contrary, experience has often shown that these barbarous methods, far from shortening the war, prolong the resistance of the exasperated enemy, provoke terrible

reprisals, and transform the struggle into a blind and inhuman massacre.

169. The Church has always tried to humanize the methods of waging war because she considers that it is a human affair; others, who do not claim her patronage but are nevertheless inspired by her ideal of peace and charity, have tried to do the same; their united efforts have resulted in those "laws of war" which all civilized nations have accepted and which they are bound in conscience to respect.[2]

170. It is unfortunately true that the disconcerting progress of science and technique offer to belligerents increasingly powerful means of dealing death and destruction; aerial war, submarine war, bacteriological war. It would be useless to refuse States the right to adapt to a certain extent their armaments and

2 Over and above the prohibitions contained in special agreements, the "Regulations respecting the Laws and Customs of War on Land" (Hague Conference, 1899 and 1907) especially forbid:

(a) To employ poison or poisoned weapons.

(b) To kill or wound treacherously individuals belonging to the hostile nation or army.

(c) To kill or wound an enemy who, having laid down his arms, or having no longer means of defence, has surrendered at discretion.

(d) To declare that no quarter will be given.

(e) To employ arms, projectiles, or material calculated to cause unnecessary suffering.

(f) To make improper use of a flag of truce, of the national flag or of the militarj' insignia and uniform of the enemy, as well as of the distinctive badges of the Geneva Convention.

(g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.

(h) To declare abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party.

"It is likewise forbidden a belligerent to force the nationals of the hostile party to take part in the operations of war directed against their country, even if they were in its service before the commencement of the war." (art. 23.)

The five Powers which took part in the Washington Conference 1921-2—U.S.A., British Empire, France, Italy, Japan—spoke of "the use in war of asphyxiatory, poisonous, or other gases, and all analogous liquids, materials or devices" as justly condemned by the general opinion of the civilized world, declared their assent to their prohibition, and invited all other civilized nations to do the same. (Treaty of Feb. 6th, 1922.)

In 1925 a Protocol on broader lines, open to the signature of all nations, extended this prohibition to bacteriological methods of warfare. At the present time this Protocol has been ratified by about thirty nations.

methods of warfare in the light of these new discoveries, and on many points the "laws of war" will doubtless be modified. Nevertheless it remains certain that the higher law of humanity will always forbid the use of the more destructive methods—chiefly chemical and bacteriological—which cause such terrible havoc that no cause of war, however legitimate, can ever justify them.

(iv) *Prisoners of War*

171. It is chiefly by the treatment meted out to prisoners that wars between civilized nations differ from those between barbarians. Savages merely consider prisoners as defenceless enemies on whom they can revenge themselves with impunity, or reduce to slavery. The progress of civilization has gradually improved the lot of prisoners, whose lives are now spared and who are granted means of subsistence, humane treatment, and, when peace has been signed, are sent back to their homes.

The older moralists show much less mercy to prisoners. Franciscus de Vittoria held that "there is nothing to prevent prisoners or those who have surrendered from being put to death, if they have been found guilty."

It is true that the writer supposes that the prisoners have been found guilty, and his further remarks soften this doctrine considerably: "In war there are many customs established by the law of nations, and it is generally admitted in the habits and usages of war that, once victory has been gained and all danger averted, the prisoners should not be put to death, unless of course they have fled; in this connection the law of nations must be obeyed to the extent that men are accustomed to do so." (De *jure belli,* No. 49.)

Nowadays, when armies are recruited by conscription, the combatants are rightly presumed not to be guilty, and the customs of modern warfare, which have been confirmed by the second Hague Conference (1907), explicitly forbid the execution of prisoners. It is therefore a ruling of positive law which belligerents are bound to obey in strict justice.

172. It is therefore absolutely clear that prisoners have a right to live. But it remains to be seen whether the just belligerent

is obliged to accept the surrender of soldiers who lay down their arms, or can make a rule that no prisoners are to be taken.

The order to give no quarter, which is dictated by hatred or revenge, and turns the struggle into a ruthless massacre, is absolutely immoral. Some military regulations allow it "in cases of absolute necessity," but the second Hague Conference did not admit this exception and prohibits the "no quarter" order entirely.

It may sometimes happen that the military authorities forbid their troops to accept gestures of surrender, on account of previous misuse by the other side. In that case, this measure, however severe it may be, can be considered as a means of legitimate self-defence which is justified by the bad faith of the enemy.

(v) *The Treatment of Non-Combatants*

173. If recourse to force is only lawful against those who unjustly impugn a right or who, having violated it, refuse to make reparation for the damage they have caused, it follows that the just belligerent cannot, on principle, use violence against those who have not in any way sided with injustice.

174. But though the belligerent cannot make any direct and intentional attempt on the lives of peaceful inhabitants who take no part in the war, he is not forbidden to do certain things in the course of the struggle which will necessarily bring about the loss of innocent lives. This loss was not directly willed, as a means likely to break the resistance of the enemy; it is permitted or tolerated as a secondary effect which is inevitably bound up with the legitimate end in view.

For these reasons it is permissible to fire against centers of military resistance, even if by so doing there is a danger of hitting private houses, schools, hospitals, and causing the death of non-combatants. Likewise, unless there is a contractual agreement to the contrary, it is lawful to make use of bombing planes to attack munition factories and railway junctions situated far from the firing line, in spite of the inevitable loss of innocent lives brought about by these expeditions.

Nevertheless there must be a reasonable proportion between

the lawful end sought by the belligerent and the harm to innocent people which results from it against his direct will.

"It is important to notice," writes Vittoria, "that great care should be taken to prevent war from causing greater evils than those it purposes to avoid; if there is no great gain, from the point of view of obtaining a complete victory in a war, in taking a citadel or fortified town which contains an enemy garrison and many innocent people, it does not seem allowable, for the sake of reducing a few enemies, to kill a number of harmless creatures by fire, machines, or other means which harm the innocent and the guilty without distinction." *{De jure belli,* No. 37.)

Morality will never allow a belligerent to attack non-combatants directly, so that the enemy may be led, under pressure of its terrorized subjects, to give up the struggle sooner (bombing of open towns, poison gas, bacillary infection, torpedoing of liners, etc.) In all these cases the harm inflicted on innocent people is directly sought as a means of bringing about file more rapid surrender of the enemy, and it is never lawful to do evil that good may result, for the end does not justify the means.

175. The older moralists had no difficulty in establishing a very clear distinction between combatants and non-combatants. The bands of mercenaries lived on the fringe of civil society, and more or less drew upon their own resources in the conducting of war. Things are very different to-day, when the whole nation identifies itself to a certain extent with its army, and industrialists, financiers, workers, railwaymen, sailors and civil servants work night and day to equip and provision it, when the patriotism of those at home efficaciously sustains those in the front line, and public opinion supports the Government and encourages it to persevere in resistance.

War has become a national affair, and all citizens in various ways take a very active part in it. It is sometimes very difficult indeed to distinguish between combatants and non-combatants. Is not the enemy therefore justified in taking the line of least resistance and attacking indiscriminately both civil and military elements, in order to dissolve this compact union?

The argument is not unreasonable, and belligerents have certainly the right to take into account the part played in modern warfare by the civilian population. The latter has ceased to be "innocent" in the sense of the older moralists. It is now permissible for the just belligerent to attack the enemy in the vital elements of its economic structure; militarized factories, railways, ports, sources of raw materials, etc. He is also allowed, by means of blockade, to exercise a gradual pressure which will end in the surrender of the adversary.

But the mass murder rendered possible by chemical or bacteriological war must be judged quite differently. The extermination of entire populations, which are not given any time to show repentance, is obviously a dreadful crime against the laws of humanity.

176. Already in the middle of the nineteenth century, Taparelli, anticipating modern methods of destruction, wrote that "to poison wells, spread epidemics, use certain over-powerful infernal machines and certain weapons causing terrible wounds, is illicit and forbidden by the law of nations. It is a praiseworthy thing to combat with equal armaments, and to use weapons more deadly than those of the enemy; victory depends upon breaking the balance between the opposing forces; an equal destruction of both sides is not the best means of upsetting this equilibrium and obtaining victory." (*Saggio,* Bk. vi. ch. 1, No. 1354.)

These remarks are sound, though it may be observed that the breaking of the equilibrium in which victory consists will only be brought about by the superiority of one side over the other. But Taparelli clearly foresaw that any increase of the destructive power of one of the belligerents would be promptly countered by the other, and that this rivalry in violence and savagery, far from hastening the hour of victory, would prolong the struggle until both parties were completely exhausted.

Taparelli is perhaps asking for too much when he demands that both parties should be equal in their armaments; it must be agreed, however, that a civilized State cannot use the latest means of destruction provided by modern military technique against a semi-barbaric or insufficiently armed nation. For in this case

the slaughter will be greatly in excess of that normally required by military necessity, and simply becomes useless and culpable cruelty.

(vi) *Enemy Possessions and Territories*

177. The older moralists, who were very anxious to preserve the lives of innocent people from unjust attacks by the enemy, were far more easy-going as regards the treatment of the possessions of the peaceful population. Vittoria writes in his *De jure belli* that "it is certain one can take from innocent people goods and other things the enemy would make use of against us, such as arms, ships, engines of war. For otherwise, victory, which is the purpose of war, could not be attained. Furthermore one can take away the money of the innocent people, and burn or destroy wheat, if that is necessary to weaken the enemy forces. (No. 39.) But he adds immediately an important proviso: "If war can be carried on properly without despoiling the peasants and other innocent people, it seems that it is not permissible to despoil them/' (No. 40.)

These principles are correct and continue to govern nations, though happily they have been mitigated and stated more precisely by the modern laws of war.

178. Though it is comparatively easy, at least in theory, to make a distinction between combatants and non-combatants, it is not so easy to make a similar distinction between goods which are or are not used for purposes of war. In point of fact all the enemy's resources, wherever they may be, can be used to prolong resistance, and the adversary should be permitted to take or even destroy them, if necessary, without regard to the rights of their lawful owners, by bombing, fires, requisitioning, etc.

Nevertheless, the laws and customs between civilized nations make it a duty for them to spare, as far as possible, those buildings which, by their very nature, cannot be put to military uses: churches, libraries, historical monuments, etc.

179. Those things which the necessities of war permit in combat naturally cease to be lawful once the struggle is ended and the victor occupies, at least provisionally, the territory he has

invaded. The régime of occupation has its laws which the just belligerent is bound to observe.

180. Until the nineteenth century, custom allowed that the mere fact of military occupation—*occupatio bellica*—gave the occupying power full sovereignty over the territory it had taken. It could therefore govern it as a true and final possession, impose its laws, raise taxes, and use both its people and its goods in the struggle against the former possessor.

This practice is inacceptable, since it implies that force alone can be a source of Right.

A fairer principle is applied to-day. The territory remains *de jure* under the authority of the evicted sovereign, but as he can no longer rule it, the occupying Power takes his place in the very interests of the inhabitants and fulfils the functions of a legal Government until the conclusion of peace, which will finally settle the fate of the occupied territory.

"Of themselves the acts of public administration of the occupying power have no validity, but the legitimate authority (of the legal Government) tacitly ratifies those which are demanded by the general interest, and this ratification alone gives them juridical value." (Cardinal Mercier. Pastoral Letter, *Patriotisme et Endurance,* Christmas 1914.)

181. The Regulation concerning the Laws and Customs of War on Land which resulted from the deliberations of two Peace Conferences (The Hague, 1899 and 1907) has defined the rights and duties of the occupying authority and successfully reconciles the real necessities of war with the imprescriptible demands of justice and humanity.

The occupying power shall endeavour to restore and make secure both public order and life by respecting whenever possible the laws already in force in the country. The inhabitants are not to be forced to take part in warlike operations against their own country. The honour and rights of the family, the life of individuals, as well as religious beliefs and the practice of religion, must be respected. Private property cannot be confiscated. If the occupying power collects taxes instead of the legal Government, it must use them for their normal purpose. If it raises other taxes, they can only be used for the needs of

the army or the administration of the occupied territories. No collective fine shall be levied on the population by reason of individual acts for which it cannot be considered as jointly responsible. Requisitioning of goods and services can only be demanded when accompanied with a just indemnity.

182. The occupying Power provisionally owns the possessions of the enemy State situated in the invaded territory. But on principle it is only allowed to administer them. Goods which can be made use of in military operations may nevertheless be taken by the occupying army, even if they belong to private individuals. Municipal property, and goods belonging to religious, charitable, educational, artistic or scientific institutions, shall be treated in the same manner as private property.

183. The inhabitants of the occupied territory retain their allegiance to the legal government of the country; they merely owe to the occupying power an external submission which does not affect their loyalty. They are not allowed to commit acts of individual or collective violence against the army or administration of the enemy; these acts, which are useless for their cause, simply lead to repressive measures against their fellow-citizens. They may act as spies on behalf of the legal government; but this patriotic activity obviously renders them liable to suffer the penalties which the law of nations authorizes the occupying power to decree against those who menace its security.

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Chapter XXI

PATRIOTISM [1]

By Most Rev. John Lancaster Spalding, D.D.

. . . There is a higher love than love of country,—the love of truth, the love of justice, the love of righteousness; and he alone is a patriot who is willing to suffer obloquy and the loss of money and friends, rather than betray the cause of truth, justice, and righteousness, for only by being faithful to this can he rightly serve his country. Moral causes govern the standing and the falling of States as of individuals; and conquering armies move forward in vain, in vain the fleeting fabric of trade is spread, if a moral taint within slowly moulder all. The national life is at fault if it be not in harmony with the eternal principles on which all right human life rests. The greatest and the noblest men when they meet rise into regions where all merely national distinctions are forgotten and transcended. In studying the works of a philosopher, a poet, or a man of science, we give little heed to what country he was bom and lived in, so eager arc we to learn the truth and beauty he reveals,—tmth and beauty, which are of no country, which are wide and all-embracing as the universe. In the presence of heroic virtue also, the national limitations disappear, that the godlike man, who belongs to all countries and ages, may stand forth in his proper light. A man supremely endowed narrows his mind when he is less than universally human. What he says and does should make laws for all,—those diviner laws which have their sanction in the common sense which makes the whole world akin.

[1] Excerpta from an address delivered at the Crève-Cœur Club banquet, Peoria, February 22. 1S99. Reprinted through the kindness of A. C. McClurg & Co., from the volume entitled *Opportunity and Other Essays.*

Patriotism as understood by the ancients is but a partial virtue. When it is most intense, it is most narrow and intolerant. In Jerusalem, in Athens, in Rome, the city was the fatherland. It was the thought of Zion, and of "Siloa's brook that flowed fast by the oracle of God"; of the Acropolis, with its marvelous setting in the midst of the Attic plain; of the world-mother, looking from her seven hills on the Tiber's tawny wave,—that made the exiles waste away with repinings for home; and their passionate devotion to their country was rarely separable from a hatred of the foreign nature. Whoever was not a citizen was an enemy or a slave; the captive foe was treated with pitiless cruelty, and the slave had no rights.

We are separated from those ancient patriots less by the long lapse of time which has intervened than by the difference of spirit in which we look upon and love our country. For us the man is more than the citizen, humanity more sacred than nationality. To lead a man's life, one must live for some one or some thing other than self. As we can see ourselves only in what is other, so we can find and love ourselves only in what is other than ourselves. To escape from the starved condition of the isolated, the individual is impelled to identify himself with larger unities,—with the family, with the State, with mankind, with God.

Now, for the ancients the State was the ultimate unity in which a man could find and feel himself. Hence their aims and sympathies were partial and narrow. Their patriotism was more intense, but it was less rational, less moral, and therefore less enduring and less beneficent than ours. It was not possible for them to identify themselves with the race, to recognize that all men are made of one blood, and that whenever one suffers injustice, wrong is done to all. But for us nationality has ceased to be the limit of individual sympathy, and the oppression of peoples, however remote, often affects us as though we ourselves had been injured; while noble words and heroic deeds, wherever and by whomever spoken and done, fill us with enthusiasm and gratitude.

Many causes, of which the Christian religion is the deepest and most far-reaching, have led to the wider views and more

generous appreciativeness of modern men. In looking to the one heavenly Father, they are drawn together and held by ties consecrated by faith and approved by reason. Science, which deals with laws that are universal, that act alike upon the farthest star and the grain of sand at our feet, on the race as on individuals, promotes this catholicity of feeling and interest. Our machinery, too, in bringing the ends of the world together, facilitates the intercourse of the peoples of the earth and thereby weakens their immemorial prejudices and hatreds. The commercial interdependence of the nations has a like tendency; while the constantly increasing influence of woman makes for larger sympathy and love. No great movement can now long remain within the boundaries of the nation in which it originates. The questions of education, of labor, of the rights of woman rouse attention and discussion in every civilized country. A new discovery or invention is at once heralded from land to land. The telegraph and the printing-press mediate a rapid and continuous interchange of thought throughout the world, and thus help to make us all, in a way never before possible, citizens of the world.

At the present moment America, if simple truth may be uttered without incurring the suspicion of conceit, represents the general tendency and sentiment of the modern age more than any other country. Here the national feeling is larger and more hospitable than anywhere else; here men of all tongues and races more easily find themselves at home than anywhere else. No other country is so attractive, no other affords in such fulness opportunity for self-activity in every sphere of endeavor, no other insures such complete civil and religious liberty. Nowhere else is there so much freedom from abuses which, because they are inveterate, seem to be sacred; nowhere else is there so much good will, so much readiness to help, so much general intelligence, such sanguine faith in the ability of an enlightened and religious people, who govern themselves, to overcome all obstacles and to find a remedy for whatever mishaps or evils may befall them. Here too, more than elsewhere possibly, men feel that there is a higher love than the love of country, that the citizen can serve his country rightly only when he holds

himself in vital communion with the eternal principles on which human life rests, and by which it is nourished.

The American's loyalty to his country is first of all loyalty to truth, to justice, to humanity. He feels that its institutions can be enduring only when they are founded on religion and morality. He is less inspired by the fortune of the Republic, its material advantages and possibilities, than by its spiritual significance and destiny. He is, indeed, filled with a sense of gladness when he beholds it stretch from ocean to ocean, from the Lakes to the Gulf; when he sees the northern pine salute the southern palm as a fellow-citizen; when he looks on its prairies teeming with harvests sufficient to feed the world, on its mountains and plains filled with silver and gold, with iron and copper, with coal and oil.

But he is less impressed by this geographical and material greatness and splendor than by the intellectual and moral conditions which America presents. Nature is fruitful in vain where man is contemptible. The palace makes ridiculous the occupant who is a beggar in mind and spirit. To no purpose is the country great, if the men are small. Life is more than life's circumstance, man more than his environment. The American patriot, then, more than others seeks grounds for his love of country chiefly in the world of man's higher being. For him freedom, knowledge, truth, justice, good will, humanity, arc the essential needs; and it is a little thing that America offers facilities for satisfying the physical and material wants, if here the soul is starved.

Democracy itself is not an end, but a means. The end is a nobler, wiser, stronger, more beneficent kind of man and woman. How shall such men and women be formed except by opportunity,—opportunity for all of worship, of education, of culture, of work that strengthens and purifies, while it creates material comfort and independence? If a nobler race is to spring forth in this new world, all the influences that are active and potent in the national life must conspire to form public opinion, by which in the end we are all ruled,—a public opinion which shall be favorable to pure religion, to the best education, and to sound morality. The better kind, however otherwise they may dis-

agree, must unite and support one another in ceaseless efforts to create such a public opinion. They must not merely lead loyal, brave, chaste, and helpful lives, but they must so live that the atmosphere in which they move shall receive from them a magnetic quality,—the power to stimulate all who breathe it to nobler thoughts and loves, to a deeper and more tender solicitude for the rights and needs of all men, of women and children, of the sick and forsaken, of the criminal and captive.

Goethe, who never utters a foolish thing, says that in time of peace patriotism properly consists merely in this,—that each one sweep before his own door, attend to his own business, learn his own lesson, that it may be well in his own household; and what he says, if but partial, is nevertheless essential truth. He himself, indeed, even in times of war and disaster for the fatherland, seemed to act on this principle, and he has consequently been accused by some of his own countrymen of a lack of patriotism, though in fact he did more to make possible the political union of Germany than any other man; for he more than any other awakened the self-consciousness of the German people and thus inspired them with a more intense longing for national unity.

A good patriot is first of all a good man,—true to himself and true to his relations to his fellowmen. If false to himself, he is false to all. If he love not rightly his father and mother, his wife and child, the neighbor who dwells beside him, how shall he rightly love his country? If he respect not the dignity of human nature in himself, but degrade it by drunkenness or lying or sensuality or dishonesty, how shall he feel a genuine and generous interest in the common weal, and earnestly strive to do his part, in correcting the evils and abuses which impair or threaten the national life and prosperity? It will, indeed, be easy for him to make his patriotism a theme for declamation, and easy, too, to throw suspicion on the loyalty of others; but if he is not a real man, it is not possible that he should be a real lover of his country.

Whoever deliberately wrongs an American, wrongs America. The worst enemy of the country is not the drunkard, but the buyer of votes, whether at the polls or in council chambers or in

legislative halls; not the petty thief, but the capitalist whose insatiate greed urges him on to crush all competitors; not the selfish man who cares not at all for the general good, but the politician who makes his patriotism a cloak to cover him while he sneaks into public office which he prostitutes to private gain; not he who refuses his assent to measures, however popular, unless he can give it honestly, but the demagogue who is ever ready to run and cry with the crowd; not the ranting anarchist, but the editor who for money impugns the known truth. But the beef embalmer has attained the highest point of treacherous infamy, beyond which it is not possible to go,—he poisons the wells, not to destroy the enemy, but the soldiers who fight their country's battles. The saloon is batl; the worst evil, however, resulting from it is not drunkenness, but political corruption; for if just laws were rightly administered, the saloon would cease to be a source of degradation and ruin.

Our civilization is still incomplete; it is, as Emerson says, "a wild democracy; the riot of mediocrities and dishonesties and fudges." If numbers were enough, if wealth were enough, if machinery were enough, to constitute a great people, for us the question would be settled, but the kind of man, not numbers or wealth or machinery, is what we have to consider, and it is a favorable omen that we are not self-complacent, that our defects and faults arc not hidden from us. We suffer from the absence of the discipline of respect, from a certain hardness and materialism, from a fondness for exaggeration, and from boastfulness. The fear of demos and the demagogue prevents us from speaking the simple and salutary language of truth when far-reaching and vital issues are in question.

We arc so accustomed to bow to the will of majorities that we easily forget that votes count for nothing when we have to consider what is true and wise and just. Here there is every likelihood that the minority is right and the majority wrong. The multitude everywhere and in all ages are dominated by the present. They are unwilling to wait, unwilling to deny themselves now that they may become capable of higher things hereafter. The success of a day robs them of the glory of a lifetime. They are fickle because, since they see only what is im-

mediately before them, their opinions change as the road turns. They arc selfish because they are shortsighted and but feebly influenced by large ideas and generous aims. Being a crowd, they are easily hypnotized, and are quickly hurried from one extreme to another. They follow the cry of chance leaders, and, being little able to think for themselves, they resent independence of thought in those things precisely in which such thought is most needed; for in the deepest and most critical questions concerning the national life and policy what is popular is rarely what is most wise. The voice of the most serious minds is not only not heeded, it is drowned in the clamor and vituperation of those who are themselves led by men who know little, and who have at heart chiefly their own popularity and profit. A false opinion is created, and we are commanded to accept it without question as the will of the people; and our highest officials, when they yield to the outcry of the mob, are commended for their wisdom and patriotism. Our best minds do not guide us; our best men do not govern us.

By faithful adherence to the principles with which our national life began, we have grown to be a prosperous and mighty people. We have been taught to cherish these principles as being scarcely less sacred than our religion. Our climate is healthful, our soil fertile, our territory large as all Europe. Our industry, intelligence, and mechanical skill have in the brief space of a century made us the richest of the nations, while the growth of our population has been phenomenal. If success is an argument for continuing in a given line of policy and conduct, no people ever had so good a reason for following in the old way. Our success has been marvelous, but, after all, it is still only the success of an experiment. It has not yet been proved that a stable and enduring civilization can be built on a democracy such as ours. We occupy a continent stretching east and west, and south, for thousands of miles. It is not easy to reconcile the interests of regions lying so remote from one another. Our population is composed not only of intergeneous elements from Europe, but also of a large and increasing and but partially assimilated body of Africans.

While our material progress has been great, our love of prin-

ciple and our strength of moral conviction seem to have grown feebler. More and more we are dominated by greed; more and more we become reckless of the means by which money is obtained. Vast fortunes are quickly heaped up, but those who toil are little benefited. Our political and commercial life is undermined by dishonesty, and we are becoming so callous or so reckless that abuses which endanger our very existence as a nation give us little concern. . . .

Here, at our hands, lies the task God sets us. It is the development of our inner life, the enriching of our minds, the purification of our hearts, the education of ourselves through liberty and labor, the reform of our politics, the rooting out of cant, lying, vulgarity, greed, and dishonesty, of drunkenness and lust; the correcting of our extravagant estimate of the value of what is merely matter of life's accompaniments as distinguished from life itself, which is thought and love, strength and courage, patience and forbearance. We have to learn that what makes a millionaire spoils a man; that a people who think trade and commerce the one thing needful have no permanent place in history, because they have no influence on the spiritual, which is the real life of man. The people who are the bearers of the largest thought, the deepest love, the holiest faith, live and work forever in the race, while merchants and traders perish and are forgotten, like the wares they deal in. See how quickly elated and how quickly cast down are they whose hope is in riches,—for riches are akin to fear, to change and death; while they who live for truth and righteousness move forward, serene and unafraid, upborne by the unseen powers; for truth and righteousness are life. Beggars and outcasts, if but some divine thought or immortal hope upwelled within, have survived the fall of empires, the ruin of civilizations, and the utter vanishment of the people from whom they sprang. We have to learn to know how to be happy and noble, for, as Ruskin says, till we have learned how to be happy and noble, we have not much to tell, even to Red Indians; and he goes on: "To watch the corn grow, and the blossoms set; to draw hard breath over ploughshare or spade; to read, to think, to love, to hope, to pray,—these are the things that make men happy. . . . The world's prosperity

or adversity depends upon our knowing and teaching these few things; but upon iron or glass or electricity or steam, in no wise."

The Absolute, the Highest, is a Person, and the civilization which issues in the noblest personalities is the best. By them we estimate the worth of our nature, by them the value of our political and religious institutions. But noble men and women do not spring forth in isolation. As an individual, man is insignificant; in fact, he cannot become human at all, except in a social environment,—in a medium in which he is made partaker of the life of the race, receiving the thoughts, hopes, and beliefs, the aims, aspirations, and ideals, which are the food of the spirit of man, of that which places him in opposition to nature and lifts him above its fatal laws. It is the patriot's business to strengthen and purify the institutions by which the citizen is educated,—the family, the Church, the State. To whom the life of the home is not sacred, nothing is sacred. The child that does not drink pure love and religion from this fountain-head can never be rightly educated. It is in vain that we build churches and schools, if the home docs not fill them with teachable hearts and minds. It is here that each one receives his better self,—the self which makes him conscious that he is a center toward which infinities converge, where truth and justice and love are felt to be the real and permanent good. What burns in the hearts of the fathers will glow in the breasts of the children. Patriotism, like charity, begins at home. It is not a philosophy; it is a sentiment, inspired, above all, by the mothers of a people, from whom also we receive religion and morality. Washington calls these the indispensable supports of political prosperity, and therefore he refuses to give the title of patriot to those who "labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens."

The end of all worthy struggles is to establish morality as the basis of individual and national life, and morality can be firmly founded only on pure religion. To make righteousness prevail, to make justice reign; to spread beauty, gentleness, wisdom, and peace; to widen opportunity, to increase good will, to move in

the light of higher thoughts and larger hopes, to encourage science and art, to foster industry and thrift, education and culture, reverence and obedience, purity and love, honesty, sobriety, and the disinterested devotion to the common good,—this is the patriot's aim, this his ideal. And if even a minority, a remnant, work in this spirit and strive with this purpose, the star of the Republic, which rose to herald the dawn of a new and better era, shall not throw its parting rays on the ruins of an empire stained with blood.

EXTRACTS FROM THE ENCYCLICAL LETTER

Summi Pontificatus, October 20, 1939

By Pope Pius XII

Christian Charity and Patriotism

Nor is there any fear lest the consciousness of universal brotherhood aroused by the teaching of Christianity, and the spirit which it inspires, be in contrast with love of traditions or the glories of one's fatherland, or impede the progress of prosperity or legitimate interests. For that same Christianity teaches that in the exercise of charity we must follow a God-given order, yielding the place of honor in our affections and good works to those who are bound to us by special ties. Nay, the Divine Master Himself gave an example of this preference for His Own country and fatherland, as He wept over the coming destruction of the Holy City. But legitimate and well-ordered love of our native country should not make us close our eyes to the all-embracing nature of Christian Charity, which calls for consideration of others and of their interests in the pacifying light of love.

Such is the marvelous doctrine of love and peace which has been such an ennobling factor in the civil and religious progress of mankind. And the heralds who proclaimed it, moved by supernatural charity, not only tilled the land and cared for the sick, but above all they reclaimed, moulded and raised life to divine heights, directing it toward the summit of sanctity in which everything is seen in the light of God. They have raised mansions

and temples which show to what lofty and kindly heights the Christian ideal urges man; but above all they have made of men, wise or ignorant, strong or weak, living temples of God and branches of the very vine which is Christ. They have handed on to future generations the treasures of ancient art and wisdom and have secured for them that inestimable gift of eternal wisdom which links men as brothers by the common recognition of a supernatural ownership.

Venerable Brethren, forgetfulness of the law of universal charity—of that charity which alone can consolidate peace by extinguishing hatred and softening envies and dissensions—is the source of grave evils for peaceful relations between nations.

Chapter XXII

THE CHRISTIAN CONSTITUTION OF STATES

Encyclical Letter *Immortale Dei,* November 1, 1885

By Pope Leo XIII

The Catholic Church, that imperishable handiwork of our all-merciful God, has for her immediate and natural purpose saving souls and securing our happiness in Heaven. Yet in regard to things temporal she is the source of benefits as manifold and great as if the chief end of her existence were to ensure the prospering of our earthly life. And in truth, wherever the Church has set her foot, she has straightway changed the face of things, and has attempered the moral tone of the people with a new civilization, and with virtues before unknown. All nations which have yielded to her sway have become eminent for their culture, their sense of justice, and the glory of their high deeds.

And yet a hackneyed reproach of old date is levelled against her, that the Church is opposed to the rightful aims of the civil government, and is wholly unable to afford help in spreading that welfare and progress which justly and naturally are sought after by every well-regulated State. From the very beginning Christians were harassed by slanderous accusations of this nature, and on that account were held up to hatred and execration, for being (so they were called) enemies of the empire. The Christian religion was moreover commonly charged with being the cause of the calamities that so frequently befell the State, whereas, in very truth, just punishment was being awarded to guilty nations by an avenging God. This odious calumny, with most valid reason, nerved the genius and sharpened the pen of St. Augustine, who, notably in his treatise

On the City of God, set forth in so bright a light the worth of Christian wisdom in its relation to the public weal, that he seems not merely to have pleaded the cause of the Christians of his day, but to have refuted for all future times impeachments so grossly contrary to truth. The wicked proncness, however, to levy the like charges and accusations has not been lulled to rest. Many, indeed, are they who have tried to work out a plan of civil society based on doctrines other than those approved by the Catholic Church. Nay, in these latter days a novel scheme of law has begun here and there to gain increase and influence, the outcome, as it is maintained, of an age arrived at full stature, and the result of liberty in evolution. But though endeavors of various kinds have been ventured on, it is clear that no better mode has been devised for building up and ruling the State than that which is the necessary growth of the teachings of the Gospel. We deem it, therefore, of the highest moment, and a strict duty of our Apostolic office, to contrast with the lessons taught by Christ the novel theories now advanced touching the State. By this means We cherish hope that the bright shining of the truth may scatter the mists of error and doubt, so that one and all may see clearly the imperious law of life which they are bound to follow and obey.

It is not difficult to determine what would be the form and character of the State were it governed according to the principles of Christian philosophy. Man's natural instinct moves him to live in civil society, for he cannot, if dwelling apart, provide himself with the necessary requirements of life, nor procure the means of developing his mental and moral faculties. Hence it is divinely ordained that he should lead his life—be it family, social, or civil—with his fellow-men, amongst whom alone his several wants can be adequately supplied. But as no society can hold together unless some one be over all, directing all to strive earnestly for the common good, every civilized community must have a ruling authority, and this authority, no less than society itself, has its source in nature, and has, consequently, God for its author. Hence it follows that all public power must proceed from God. For God alone is the true and supreme Lord of the world. Everything, without

exception, must be subject to Him, and must serve Him, so that whosoever holds the right to govern, holds it from one sole and single source, namely, God, the Sovereign Ruler of all? *There is no power but from God.* (Rom. xiii, 1.)

The right to rule is not necessarily, however, bound up with any special mode of government. It may take this or that form, provided only that it be of a nature to insure the general welfare? But whatever be the nature of the government, rulers must ever bear in mind that God is the paramount ruler of the world, and must set Him before themselves as their exemplar and law in the administration of the State. For, in things visible, God has fashioned secondary causes, in which His divine action can in some wise be discerned, leading up to the end to which the course of the world is ever tending. In like manner in civil society, God has always willed that there should be a ruling authority, and that they who are invested with it should reflect the divine power and providence in some measure over the human race.

They, therefore, who rule should rule with even-handed justice, not as masters, but rather as fathers, for the rule of God over man is most just, and is tempered always with a father's kindness. Government should, moreover, be administered for the well-being of the citizens because they who govern others possess authority solely for the welfare of the State. Furthermore, the civil power must not be subservient to the advantage of any one individual or of some few persons, inasmuch as it was established for the common good of all. But if those who are in authority rule unjustly, if they govern overbearingly or arrogantly, and if their measures prove hurtful to the people, they must remember that the Almighty will one day bring them to account, the more strictly in proportion to the sacredness of their office and pre-eminence of their dignity. *The mighty shall be mightily tormented.* (Wisd. vi, 7.) Then truly will the majesty of the law meet with the dutiful and willing homage of the people, when they are convinced that their rulers hold authority from God, and feel that it is a matter of justice and

1 See Ch. XXIII, s. 1.
2 See Ch. XXIII, b. 2.

duty to obey them, and to show them reverence and fealty, united in a love not unlike that which children show their parents. *Let every soul be subject to higher powers.* (Rom. xiii, 1.) To despise legitimate authority, in whomsoever vested, is unlawful, as a rebellion against the Divine will, and whoever resists that, rushes wilfully to destruction. *He that resisteth the power resisteth the ordinance of God, and they that resist, purchase to themselves damnation.* (Ibid, xiii, 2.) To cast aside obedience, and by popular violence to incite to revolt, is therefore treason, not against man only, but against God.

As a consequence, the State, constituted as it is, is clearly bound to act up to the manifold and weighty duties linking it to God, by the public profession of religion.[3] Nature and reason, which command every individual devoutly to worship God in holiness, because we belong to Him and must return to Him since from Him we came, bind also the civil community by a like law. For men living together in society are under the power of God no less than individuals are, and society, not less than individuals, owes gratitude to God, who gave it being and maintains it, and whose ever-bounteous goodness enriches it with countless blessings. Since, then, no one is allowed to be remiss in the service due to God, and since the chief duty of all men is to cling to religion in both its teaching and practice—not such religion as they may have a preference for, but the religion which God enjoins, and which certain and most clear marks show to be the only one true religion—it is a public crime to act as though there were no God. So, too, is it a sin in the State not to have care for religion, as a something beyond its scope, or as of no practical benefit; or out of many forms of religion to adopt that one which chimes in with the fancy; for we are bound absolutely to worship God in that way which He has shown to be His will.[4] All who rule, therefore, should hold in honor the holy name of God, and one of their chief duties must be to favor religion, to protect it, to shield it under the credit and sanction of the laws, and neither to organize nor enact any measure that may compromise its safety. This is

[3] See Ch. XXIII, 3.
[4] See Ch. XXIII, 4.

the bounden duty of rulers to the people over whom they rule. For one and all are we destined by our birth and adoption to enjoy, when this frail and fleeting life is ended, a supreme and final good in Heaven, and to the attainment of this every endeavor should be directed. Since, then, upon this depends the full and perfect happiness of mankind, the securing of this end should be of all imaginable interests the most urgent. Hence civil society, established for the common welfare, should not only safeguard the well-being of the community, but have also at heart the interests of its individual members, in such mode as not in any way to hinder, but in every manner to render as easy as may be, the possession of that highest and unchangeable good for which all should seek. Wherefore, for this purpose, care must especially be taken to preserve unharmed and unimpeded the religion whereof the practice is the link connecting man with God.

Now, it cannot be difficult to find out which is the true religion, if only it be sought with an earnest and unbiased mind; for proofs are abundant and striking. We have, for example, the fulfilment of prophecies; miracles in great number; the rapid spread of the faith in the midst of enemies and in face of overwhelming obstacles; the witness of the martyrs and the like. From all these it is evident that the only true religion is the one established by Jesus Christ Himself, and which He committed to His Church to protect and to propagate.

For the only-begotten Son of God established on earth a society which is called the Church, and to it He handed over the exalted and divine office which He had received from His Father, to be continued through the ages to come. As *the Father hath sent Me, I also send you.* (John xx, 21.) *Behold I am with you all days, even to the consummation of the world.* (Matt, xxviii, 20.) Consequently, as Jesus Christ carne into the world that men *might have life and have it more abundantly* (John x, 10), so also has the Church for its aim and end the eternal salvation of souls, and hence it is so constituted as to open wide its arms to all mankind, unhampered by any limit of either time or place. *Preach ye the Gospel to every creature.* (Mark xvi, 15.)

Over this mighty multitude God has Himself set rulers with power to govern; and He has willed that one should be the head of all, and the chief and unerring teacher of truth, to whom He has given *the keys of the kingdom of heaven.* (Matt, xvi, 19.) *Feed My lambs, feed my sheep.* (John xxi, 16, 17.) *I have prayed for thee that thy faith fail not.* (Luke xxii, 32.)

This society is made up of men, just as civil society is, and yet is supernatural and spiritual, on account of the end for which it was founded, and of the means by which it aims at attaining that end. Hence it is distinguished and differs from civil society, and what is of highest moment, it is a society chartered as of right divine, perfect in its nature and in its title, to possess in itself and by itself, through the will and loving kindness of its Founder, all needful provision for its maintenance and action. And just as the end at which the Church aims is by far the noblest of ends, so is its authority the most exalted of all authority, nor can it be looked upon as inferior to the civil power, or in any manner dependent upon it.[5]

In very truth Jesus Christ gave to His Apostles unrestrained authority in regard to things sacred, together with the genuine and most true power of making laws as also with the twofold right of judging and of punishing, which flow from that power. *All power is given to Me in heaven and on earth: going therefore teach all nations . . . teaching them to observe all things whatsoever I have commanded you.* (Matt, xxviii, 18-20.) And in another place, *If he will not hear them, tell the Church.* (Matt, xviii, 17.) And again, *In readiness to revenge all disobedience.* (2 Cor. x, 6.) And once more, *That . . . I may not deal more severely according to the power which the Lord hath given me, unto edification and not unto destruction.* (2 Cor. xiii, 10.) Hence it is the Church, and not the State, that is to be man's guide to Heaven. It is to the Church that God has assigned the charge of seeing to, and legislating for, all that concerns religion; of teaching all nations; of spreading the Christian faith as widely as possible; in short, of administering freely and without hindrance, in accordance with her own judgment, all matters that fall within its competence.

[5] Sec Ch. XXTII, 5.

Now this authority, perfect in itself, and plainly meant to be unfettered, so long assailed by a philosophy that truckles to the State, the Church has never ceased to claim for herself and openly to exercise. The Apostles themselves were the first to uphold it, when, being forbidden by the rulers of the Synagogue to preach the Gospel, they courageously answered, IFe *must obey God rather than men.* (Acts v, 29.) This same authority the holy Fathers of the Church were always careful to maintain by weighty arguments, according as occasion arose, and the Roman Pontiffs have never shrunk from defending it with unbending constancy. Nay more, princes and all invested with power to rule have themselves approved it, in theory alike and in practice. It cannot be calleel in question that in the making of treaties, in the transaction of business matters, in sending and receiving Ambassadors, and in the interchange of other kinds of official dealings, they have been wont to treat with the Church as with a supreme and legitimate power. And assuredly all ought to hold that it was not without a singular disposition of God's providence that this power of the Church was provided with a civil sovereignty as the surest safeguard of her independence.[0]

The Almighty, therefore, has appointed the charge of the human race between two powers, the ecclesiastical and the civil, the one being set over divine, the other over human things. Each in its kind is supreme, each has fixed limits within which it is contained, limits which are defined by the nature and special object of the province of each, so that there is, we may say, an orbit traced out within which the action of each is brought into play by its own native right.[7] But inasmuch as each of these two powers has authority over the same subjects, and as it might come to pass that one and the same thing—related differently, but still remaining one and the same thing—might belong to the jurisdiction and determination of both, therefore God, who foresees all things, and who is the author of these two powers, has marked out the course of each in right correlation to the other. *For the powers that are, are ordained*

[°]Sce Ch. XXIII, 6.
[']See Ch. XXIII, 7.

of God. (Rom. xiii, 1.) Were this not so, deplorable contentions and conflicts would often arise, and not infrequently men, like travelers at the meeting of two roads, would hesitate in anxiety and doubt, not knowing what course to follow. Two powers would be commanding contrary things, and it would be a dereliction of duty to disobey either of the two.

But it would be most repugnant to deem thus of the wisdom and goodness of God. Even in physical things, albeit of a lower order, the Almighty has so combined the forces and springs of nature with tempered action and wondrous harmony that no one of them clashes with any other, and all of them most fitly and aptly work together for the great purpose of the universe. There must, accordingly, exist, between these two powers, a certain orderly connection, which may be compared to the union of the soul and body in man. The nature and scope of that connection can be determined only, as We have laid down, by having regard to the nature of each power, and by taking account of the relative excellence and nobleness of their purpose. One of the two has for its proximate and chief object the well-being of this mortal life; the other the everlasting joys of Heaven. Whatever, therefore, in things human is of a sacred character, whatever belongs either of its own nature or by reason of the end to which it is referred, to the salvation of souls, or to the worship of God, is subject to the power and judgment of the Church. Whatever is to be ranged under the civil and jwlitical order is rightly subject to the civil authority. Jesus Christ has Himself given command that what is Cæsar's is to be rendered to Cæsar, and that what belongs to God is to be rendered to God?

There are, nevertheless, occasions when another method of concord is available for the sake of peace and liberty: We mean when rulers of the State and the Roman Pontiff come to an understanding touching some special matter. At such times the Church gives signal proof of her motherly love by showing the greatest possible kindliness and indulgence.[9]

Such then, as We have briefly pointed out, is the Christian

[8] See Ch. XXIII, 8.
[9] See Ch. XXIII, 9.

organization of civil society; not rashly or fancifully shaped out, but educed from the highest and truest principles, confirmed by natural reason itself.

In such an organization of the State, there is nothing that can be thought to infringe upon the dignity of rulers, and nothing unbecoming them; nay, so far from degrading the sovereign power in its due rights, it adds to it permanence and lustre. Indeed, when more fully pondered, this mutual co-ordination has a perfection in which all other forms of government are lacking, and from which excellent results would flow, were the several component parts to keep their place and duly discharge the office and work appointed respectively for each. And, doubtless, in the Constitution of the State such as we have described, divine and human things are equitably shared; the rights of citizens assured to them, and fenced round by divine, by natural, and by human law; the duties incumbent on each one being wisely marked out, and their fulfilment fittingly insured. In their uncertain and toilsome journey towards the city made without hands, all see that they have safe guides and helpers on their way, and are conscious that others have charge to protect their persons alike and their possessions, and to obtain or preserve for them everything essential for their present life. Furthermore, domestic society acquires that firmness and solidity so needful to it, from the holiness of marriage, one and indissoluble, wherein the rights and duties of husband and wife are controlled with wise justice and equity; due honor is assured to the woman; the authority of the husband is conformed to the pattern afforded by the authority of God; the power of the father is tempered by a due regard for the dignity of the mother and her offspring; and the best possible provision is made for the guardianship, welfare, and education of the children.

In political affairs, and all matters civil, the laws aim at securing the common good, and are not framed according to the delusive caprices and opinions of the mass of the people, but by truth and by justice; the ruling powers are invested with a sacredness more than human, and are withheld from deviating from the path of duty, and from overstepping the bounds of rightful authority; and the obedience of citizens is rendered with

a feeling of honor and dignity, since obedience is not the servitude of man to man, but submission to the will of God, exercising His sovereignty through the medium of men. Now, this being recognized as undeniable, it is felt that the high office of rulers should be held in respect; that public authority should be constantly and faithfully obeyed; that no act of sedition should be committed; and that the civic order of the commonwealth should be maintained as sacred.

So, also, as to the duties of each one towards his fellow-men, mutual forbearance, kindliness, generosity, are placed in the ascendant; the man who is at once a citizen and a Christian is not drawn aside by conflicting obligations; and, lastly, the abundant benefits with which the Christian religion, of its very nature, endows even the mortal life of man, are acquired for the community and civil society. And this to such an extent that it may be said in sober truth: "The condition of the commonwealth depends on the religion with which God is worshipped: and between one and the other there exists an intimate and abiding connection." *(Sacr. Imp. ad Cyrillum Alexand. et Episcopos Metrop.* Cfr. Labbe, *Collect. Cone.,* T. iii.)

Admirably, according to his wont, does St. Augustine, in many passages, enlarge upon the potency of these advantages; but nowhere more markedly and to the point than when he addresses the Catholic Church in the following words: "Thou dost teach and train children with much tenderness, young men with much vigor, old men with much gentleness; as the age not of the body alone, but of the mind of each requires. Women thou dost subject to their husbands in chaste and faithful obedience, not for the gratifying of their lust, but for bringing forth children, and for having a share in the family concerns. Thou dost set husbands over their wives, not that they may play false to the weaker sex, but according to the requirements of sincere affection. Thou dost subject children to their parents in a kind of free service, and dost establish parents over their children with a benign rule."

". . . Thou joinest together, not in society only, but in a sort of brotherhood, citizen with citizen, nation with nation, and the whole race of men, by reminding them of their common

parentage. Thou teachest kings to look to the interests of their people, and dost admonish the people to be submissive to their kings. With all care dost thou teach all to whom honor is due, and affection, and reverence, and fear, consolation, and admonition, and exhortation, and discipline, and reproach, and punishment. Thou showest that all these are not equally incumbent on all, but that charity is owing to all, and wrong-doing to none." (*De moribus Eccl. Cathol.* xxx, 63.) And in another place, blaming the false wisdom of certain time-saving philosophers, he observes: "Let those who say that the teaching of Christ is hurtful to the State, produce such armies as the maxims of Jesus have enjoined soldiers to bring into being; such governors of provinces; such husbands and wives; such parents and children; such masters and servants; such kings; such judges, and such payers and collectors of tribute, as the Christian teaching instructs them to become, and then let them dare to say that such teaching is hurtful to the State. Nay, rather will they hesitate to own that this discipline, if duly acted up to, is the very mainstay of the commonwealth?" (*Epist.* 138, al. 5, *ad Marcellinum,* ii, 15.)

There was once a time when States were governed by the principles of Gospel teaching. Then it was that the power and divine virtue of Christian wisdom had diffused itself throughout the laws, institutions, and morals of the people, permeating all ranks and relations of civil society. Then, too, the religion instituted by Jesus Christ, established firmly in befitting dignity, flourished everywhere, by the favor of princes and the legitimate protection of magistrates; and Church and State were happily united in concord and friendly interchange of good offices. The State, constituted in this wise, bore fruits important beyond all expectation, whose remembrance is still, and always will be, in renown, witnessed to as they are by countless proofs which can never be blotted out or even obscured by any craft of any enemies. Christian Europe has subdued barbarous nations, and changed them from a savage to a civilized condition, from superstition to true worship. It victoriously rolled back the tide of Mohammedan conquest; retained the headship of civilization; stood forth in the front rank as the leader and

teacher of all, in every branch of national culture; bestowed on the world the gift of true and many-sided liberty; and most wisely founded very numerous institutions for the solace of human suffering. And if we inquire how it was able to bring about so altered a condition of things, the answer is—Beyond all question, in large measure, through religion; under whose auspices so many great undertakings were set on foot, through whose aid they were brought to completion.

A similar state of things would certainly have continued had the agreement of the two powers been lasting. More important results even might have been justly looked for, had obedience waited upon the authority, teaching, and counsels of the Church, and had this submission been specially marked by greater and more unswerving loyalty. For that should be regarded in the light of an ever-changeless law which Ivo of Chartres wrote to Pope Paschal II: "When kingdom and priesthood are at one, in complete accord, the world is well ruled, and the Church flourishes, and brings forth abundant fruit. But when they are at variance, not only smaller interests prosper not, but even things of greatest moment fall into deplorable decay." (*Epist.* 238.)

Sad it is to call to mind how the harmful and lamentable rage for innovation which rose to a climax in the sixteenth century, threw first of all into confusion the Christian religion, and next, by natural sequence, invaded the precincts of philosophy, whence it spread amongst all classes of society. From this source, as from a fountain-head, burst forth all those later tenets of unbridled license which, in the midst of the terrible upheavals of the last century, were wildly conceived and boldly proclaimed as the principles and foundation of that new jurisprudence which was not merely previously unknown, but was at variance on many points with not only the Christian, but even with the natural law.

Amongst these principles the main one lays down that as all men are alike by race and nature, so in like manner all are equal in the control of their life; that each one is so far his own master as to be in no sense under the rule of any other individual; that each is free to think on every subject just as he may choose, and to do whatever he may like to do; that no

man has any right to rule over other men. In a society grounded upon such maxims, all government is nothing more or less than the will of the people, and the people, being under the power of itself alone, is alone its own ruler. It does choose, nevertheless, some to whose charge it may commit itself, but in such wise that it makes over to them not the right so much as the business of governing, to be exercised, however, in its name.

The authority of God is passed over in silence, just as if there were no God; or as if He cared nothing for human society; or as if men, whether in their individual capacity or bound together in social relations, owed nothing to God; or as if there could be a government of which the whole origin and power and authority did not reside in God Himself. Thus, as is evident, a State becomes nothing but a multitude, which is its own master and ruler. And since the populace is declared to contain within itself the spring-head of all rights and of all power, it follows that the State does not consider itself bound by any kind of duty towards God. Moreover, it believes that it is not obliged to make public profession of any religion; or to inquire which of the very many religions is the only one true; or to prefer one religion to all the rest; or to show to any form of religion special favor; but, on the contrary, is bound to grant equal rights to every creed, so that public order may not be disturbed by any particular form of religious belief.

And it is a part of this theory that all questions that concern religion are to be referred to private judgment; that every one is to be free to follow whatever religion he prefers, or none at all if he disapprove of all. From this the following consequences logically flow: that the judgment of each one's conscience is independent of all law; that the most unrestrained opinions may be openly expressed as to the practice or omission of divine worship; and that every one has unbounded license to think whatever he chooses and to publish abroad whatever he thinks.

Now when the State rests on foundations like those just named —and for the time being they are greatly in favor—it readily appears into what and how unrightful a position the Church is driven. For when the management of public business is in

harmony with doctrines of such a kind, the Catholic religion is allowed a standing in civil society equal only, or inferior, to societies alien from it; no regard is paid to the laws of the Church, and she who, by the order and commission of Jesus Christ, has the duty of teaching all nations, finds herself forbidden to take any part in the instruction of the people. With reference to matters that are of twofold jurisdiction, they who administer the civil power lay down the law at their own will, and in matters that appertain to religion defiantly put aside the most sacred decrees of the Church. They claim jurisdiction over the marriages of Catholics, even over the bond as well as the unity and the indissolubility of matrimony. They lay hands on the goods of the clergy, contending that the Church cannot possess property. Lastly, they treat the Church with such arrogance that, rejecting entirely her title to the nature and rights of a perfect society, they hold that she differs in no respect from other societies in the State, and for this reason possesses no right nor any legal power of action, save that which she holds by the concession and favor of the government. If in any State the Church retains her own right—and this with the approval of the civil law, owing to an agreement publicly entered into by the two powers—men forthwith begin to cry out that matters affecting the Church must be separated from those of the State.[10]

Their object in uttering this cry is to be able to violate unpunished their plighted faith, and in all things to have unchecked control. And as the Church, unable to abandon her chiefest and most sacred duties, cannot patiently put up with this, and asks that the pledge given to her be fully and scrupulously acted up to, contentions frequently arise between the ecclesiastical and the civil power, of which the issue commonly is, that the weaker power yields to the one which is stronger in human resources.

Accordingly, it has become the practice and determination under this condition of public polity (now so much admired by many) cither to forbid the action of the Church altogether, or to keep her in check and bondage to the State. Public enact-

[10] See Ch. XXIII, 10.

monts arc in great measure framed with this design. The drawing up of laws, the administration of State affairs, the godless education of youth, the spoliation and suppression of religious orders, the overthrow of the temporal power of the Roman Pontiff, all alike aim at this one end—to paralyze the action of Christian institutions, to cramp to the utmost the freedom of the Catholic Church, and to curtail her every single prerogative.

Now, natural reason itself proves convincingly that such concepts of the government of a State are wholly at variance with the truth. Nature itself bears witness that all power, of every kind, has its origin from God, who is its chief and most august source.

The sovereignty of the people, however, and this without any reference to God, is held to reside in the multitude; which is doubtless a doctrine exceedingly well calculated to flatter and to inflame many passions, but which lacks all reasonable proof, and all power of insuring public safety and preserving order. Indeed from the prevalence of this teaching, things have come to such a pass that many hold as an axiom of civil jurisprudence that seditions may be rightfully fostered. For the opinion prevails that princes are nothing more than delegates chosen to carry out the will of the people; whence it necessarily follows that all things are as changeable as the will of the people, so that risk of public disturbances is ever hanging over our heads.[11]

To hold therefore that there is no difference in matters of religion between forms that are unlike each other, and even contrary to each other, most clearly leads in the end to the rejection of all religion in both theory and practice. And this is the same thing as atheism, however it may differ from it in name. Men who really believe in the existence of God must, in order to be consistent with themselves and to avoid absurd conclusions, understand that differing modes of divine worship involving dissimilarity and conflict even on most important points, cannot all be equally probable, equally good, and equally acceptable to God.

So, too, the liberty of thinking, and of publishing, whatsoever each one likes, without any hindrance is not in itself an

[11] Sec Ch. XXIII, 11.

advantage over which society can wisely rejoice. On the contrary it is the fountain-head and origin of many evils. Liberty is a power perfecting man, and hencc should have truth and goodness for its object. But the character of goodness and truth cannot be changed at option. These remain ever one and the same, and are no less unchangeable than Nature herself. If the mind assents to false opinions, and the will chooses and follows after what is wrong, neither can attain its native fulness, but both most fall from their native dignity into an abyss of corruption. Whatever, therefore, is opposed to virtue and truth, may not rightly be brought temptingly before the eye of man, much less sanctioned by the favor and protection of the law." A well-spent life is the only passport to Heaven, whither all are bound, and on this account the State is acting against the laws and dictates of nature whenever it permits the license of opinion and of action to lead minds astray from truth and souls away from the practice of virtue. To exclude the Church, founded by God Himself, from the business of life, from the power of making laws, from the training of youth, from domestic society, is a grave and fatal error. A State from which religion is banished can never be well regulated; and already perhaps more than is desirable is known of the nature and tendency of the so-called civil philosophy of life and morals. The Church of Christ is the true and sole teacher of virtue and guardian of morals. She it is who preserves in their purity the principles from which duties flow, and by setting forth most urgent reasons for virtuous life, bids us not only to turn away from wicked deeds, but even to curb all movements of the mind that are opposed to reason, even though they be not carried out in action.

To wish the Church to be subject to the civil power in the exercise of her duty is a great folly and a sheer injustice. Whenever this is the case, order is disturbed, for things natural are put above things supernatural; the many benefits which the Church, if free to act, would confer on society are either prevented or at least lessened in number; and a way is prepared for enmities and contentions between the two powers, with what

13 See Ch. XXIII, 12.

evil result to both the issue of events has taught us only too frequently.

Doctrines such as these, which cannot be approved by human reason, and most seriously affect the whole civil order, Our predecessors the Roman Pontiffs (well aware of what their apostolic office required of them) have never allowed to pass uncondemned. Thus Gregory XVI in his Encyclical Letter *Mirari vos,* of date August 15, 1832, inveighed with weighty words against the sophisms, which even at his time were being publicly inculcated—namely, that no preference should be shown for any particular form of worship; that it is right for individuals to form their own personal judgments about religion; that each man's conscience is his sole and all-sufficing guide; and that it is lawful for every man to publish his own views, whatever they may be, and even to conspire against the State. On the question of the separation of Church and State the same Pontiff writes as follows: "Nor can We hope for happier results either for religion or for the civil government from the wishes of those who desire that the Church be separated from the State, and the concord between the secular and ecclesiastical authority be dissolved. It is clear that these men, who yearn for a shameless liberty, live in dread of an agreement which has always been fraught with good, and advantageous alike to sacred and civil interests." To the like effect, also, as occasion presented itself, did Pius IX brand publicly many false opinions which were gaining ground, and afterwards ordered them to be condensed in summary form in order that in this sea of error Catholics might have a light which they might safely follow. It will suffice to indicate a few of them:

Prop, xix: "The Church is not a true, perfect, and wholly independent society, possessing its own unchanging rights conferred upon it by its Divine Founder; but it is for the civil power to determine what are the rights of the Church, and the limits within which it may use them." Prop, xxxix: "The State, as the origin and source of all rights enjoys a right that is unlimited." Prop. Iv: "The Church must be separated from the State, and the State from the Church." Prop. Ixxix: "It is untrue that the civil liberty of every form of worship, and the full power given to all of openly and publicly manifesting whatsoever opinions and thoughts, lead to the more ready corruption of the minds and morals of the people, and to the spread of the plague of religious indifference."[19]

«Sec Ch. XXIII, 13.

From these pronouncements of the Popes it is evident that the origin of public power is to be sought for in God Himself, and not in the multitude, and that it is repugnant to reason to allow free scope for sedition. Again, that it is not lawful for the State, any more than for the individual, either to disregard all religious duties or to hold in equal favor different kinds of religion: that the unrestrained freedom of thinking and of openly making known one's thoughts is not inherent in the rights of citizens, and is by no means to be reckoned worthy of favor and supported. In like manner it is to be understood that the Church no less than the State itself is a society perfect in its own nature and its own right, and that those who exercise sovereignty ought not so to act as to compel the Church to become subservient or subject to them, or to hamper her liberty in the management of her own affairs, or to despoil her in any way of the other privileges conferred upon her by Jesus Christ. In matters, however, of mixed jurisdiction, it is in the highest degree consonant to nature, as also to the designs of God, that so far from one of the powers separating itself from the other, or still less coming into conflict with it, complete harmony, such as is suited to the end for which each power exists, should be preserved between them.

This then is the teaching of the Catholic Church concerning the constitution and government of the State. By the words and decrees just cited, if judged dispassionately, no one of the several forms of government is in itself condemned, inasmuch as none of them contain anything contrary to Catholic doctrine, and all of them are capable, if wisely and justly managed, to insure the welfare of the State. Neither is it blameworthy in itself, in any manner, for the people to have a share, greater or less in the government: for at certain times, and under certain laws, such participation may not only be of benefit to the citizens, but may even be of obligation. Nor is there any reason why any one should accuse the Church of being wanting in gentleness of action or largeness of view, or of being opposed to real and lawful liberty. The Church, indeed, deems it unlawful to place the various forms of divine worship on the same footing as the true religion, but does not, on that account,

condemn those rulers who, for the sake of securing some great good or of hindering some great evil, allow patiently custom or usage to be a kind of sanction for each kind of religion having its place in the State.[14] And in fact the Church is wont to take earnest heed that no one shall be forced to embrace the Catholic faith against his will, for, as St. Augustine wisely reminds us, "Man cannot believe otherwise than of his own free will."

In the same way the Church cannot approve of that liberty which begets a contempt of the most sacred laws of God, and casts off the obedience due to lawful authority, for this is not liberty so much as license, and is most correctly styled by St. Augustine the "liberty of self-ruin," and by the Apostle St. Peter *the cloak of malice.* (Peter ii, 16.) Indeed, since it is opposed to reason, it is a true slavery, *far whosoever committeth sin is the slave of sin.* (John viii, 34.) On the other hand, that liberty is truly genuine, and to be sought after, which in regard to the individual does not allow men to be the slaves of error and of passion, the worst of all masters; which, too, in public administration guides the citizens in wisdom and provides for them increased means of well-being; and which, further, protects the State from foreign interference.

This honorable liberty, alone worthy of human beings, the Church approves most highly and has never slackened her endeavor to preserve, strong and unchanged, among nations. And in truth whatever in the State is of chief avail for the common welfare; whatever has been usefully established to curb the license of rulers who are opposed to the true interests of the people, or to keep in check the leading authorities from unwarrantably interfering in municipal or family affairs—whatever tends to uphold the honor, manhood, and equal rights of individual citizens;—of all these things, as the monuments of past ages bear witness, the Catholic Church has always been the originator, the promoter, or the guardian. Ever therefore consistent with herself, while on the one hand she rejects that exorbitant liberty which in individuals and in nations ends in license or in thraldom, on the other hand, she willingly and most

[14] See Ch. XXIII, 14.

gladly welcomes whatever improvements the age brings forth, if these really secure the prosperity of life here below, which is as it were a stage in the journey to the life that will know no ending.

Therefore, when it is said the Church is jealous of modern political systems, and that she repudiates the discoveries of modern research, the charge is a ridiculous and groundless calumny. Wild opinions she does repudiate, wicked and seditious projects she does condemn, together with that habit of mind which points to the beginning of a wilful departure from God. But as all truth must necessarily proceed from God, the Church recognizes in all truth that is reached by research, a trace of the divine intelligence. And as all truth in the natural order is powerless to destroy belief in the teachings of revelation, but can do much to confirm it, and as every newly discovered truth may serve to further the knowledge or the praise of God, it follows that whatsoever spreads the range of knowledge will always be willingly and even joyfully welcomed by the Church. She will always encourage and promote, as she does in other branches of knowledge, all study occupied with the investigation of nature. In these pursuits, should the human intellect discover anything not known before, the Church makes no opposition. She never objects to search being made for things that minister to the refinements and comforts of life. So far indeed from opposing these she is now, as she ever has been, hostile alone to indolence and sloth, and earnestly wishes that the talents of men may bear more and more abundant fruit by cultivation and exercise. Moreover she gives encouragement to every kind of art and handicraft, and through her influence, directing all strivings after progress towards virtue and salvation, she labors to prevent man's intellect and industry from turning him away from God and from heavenly things.

All this, though so reasonable and full of counsel, finds little favor nowadays when States not only refuse to conform to the rules of Christian wisdom, but seem even anxious to recede from them further and further on each successive day. Nevertheless, since truth when brought to light is wont, of its own nature, to spread itself far and wide, and gradually take possession of the minds of men, We, moved by the great and holy

duty of Our apostolic mission to all nations, speak, as We are bound to do, with freedom. Our eyes are not closed to the spirit of the times. We repudiate not the assured and useful improvements of our age, but devoutly wish affairs of State to take a safer course than they are now taking, and to rest on a more firm foundation without injury to the true freedom of the people; for the best parent and guardian of liberty amongst men is truth. *The truth shall make you free.* (John viii, 32.)

If in the difficult times in which our lot is cast, Catholics will give ear to Us, as it behooves them to do, they will readily see what are the duties of each one in matters of opinion as well as action. As regards opinion, whatever the Roman Pontiffs have hitherto taught, or shall hereafter teach, must be held with a firm grasp of mind, and, so often as occasion requires, must be openly professed.

Especially with reference to the so-called "Liberties" which are so greatly coveted in these days, all must stand by the judgment of the Apostolic Sec, and have the same mind. Let no man be deceived by the outward appearance of these liberties, but let each one reflect whence these have had their origin, and by what efforts they are everywhere upheld and promoted. Experience has made us well acquainted with their results to the State, since everywhere they have borne fruits which the good and wise bitterly deplore. If there really exist anywhere, or if we in imagination conceive, a State, waging wanton and tyrannical war against Christianity and if we compare with it the modern form of government just described, this latter may seem the more endurable of the two. Yet, undoubtedly, the principles on which such a government is grounded arc, as We have said, of a nature which no one can approve.

Secondly, action may relate to private and domestic matters, or to matter public. As to private affairs, the first duty is to conform life and conduct to the gospel precepts, and to refuse to shrink from this duty when Christian virtue demands some sacrifice difficult to make. All, moreover, are bound to love the Church as their common mother, to obey her laws, promote her honor, defend her rights, and to endeavor to make her respected and loved by those over whom they have authority. It is also

of great moment to the public welfare to take a prudent part in the business of municipal administration, and to endeavor above all to introduce effectual measures, so that, as becomes a Christian people, public provision may be made for the instruction of youth in religion and true morality. Upon these things the well-being of every State greatly depends.

Furthermore, it is in general fitting and salutary that Catholics should extend their efforts beyond this restricted sphere, and give their attention to national politics. We say in general, because these Our precepts are addressed to all nations. However, it may in some places be true that, for most urgent and just reasons, it is by no means expedient for Catholics to engage in public affairs or to take an active part in politics. Nevertheless, as We have laid down, to take no share in public matters would be equally as wrong (We speak in general) as not to have concern for, or not to bestow labor upon, the common good. And this all the more because Catholics are admonished, by the very doctrines which they profess, to be upright and faithful in the discharge of duty, while if they hold aloof, men whose principles offer but small guarantee for the welfare of the State will the more readily seize the reins of government. This would tend also to the injury of the Christian religion, forasmuch as those would come into power who are badly disposed towards the Church, and those who are willing to befriend her would be deprived of all influence.

It follows therefore clearly that Catholics have just reasons for taking part- in the conduct of public affairs.[19]

For in so doing they assume not the responsibility of approving what is blameworthy in the actual methods of government, but seek to turn these very methods, so far as possible, to the genuine and true public good, and to use their best endeavors at the same time to infuse, as it were, into all the veins of the State the healthy sap and blood of Christian wisdom and virtue. The morals and ambitions of the heathens differed widely from those of the Gospel, yet Christians were to be seen living undefiled everywhere in the midst of pagan superstition, and, while always true to themselves, coming to the front boldly wherever an opening was presented. Models of loyalty to their rulers,

[19] See Ch. XXIII, 15.

submissive, so far as was permitted, to the sovereign power, they shed around them on every side a halo of sanctity; they strove to be helpful to their brethren, and to attract others to the wisdom of Jesus Christ, yet were bravely ready to withdraw from public life, nay, even to lay down their life, if they could not without loss of virtue retain honors, dignities, and offices. For this reason Christian ways and manners speedily found their way not only into private houses but into the camp, the senate, and even into the imperial palaces. "We are but of yesterday," wrote Tertullian, "yet we swarm in all your institutions, we crowd your cities, islands, villages, towns, assemblies, the army itself, your wards and corporations, the palace, the senate, and the law courts." So that the Christian faith when once it became lawful to make public profession of the Gospel, appeared in most of the cities of Europe, not like an infant crying in its cradle, but already grown up and full of vigor.

In these our days it is well to revive these examples of our forefathers. First and foremost it is the duty of all Catholics worthy of the name and wishful to be known as most loving children of the Church, to reject without swerving whatever is inconsistent with so fair a title; to make use of popular institutions, so far as can honestly be done, for the advancement of truth and righteousness; to strive that liberty of action shall not transgress the bounds marked out by nature and the law of God; to endeavor to bring back all civil society to the pattern and form of Christianity which We have described. It is barely possible to lay down any fixed method by which such purposes are to be attained, because the means adopted must suit places and times widely differing from one another. Nevertheless, above all things, unity of aim must be preserved, and similarity must be sought after in all plans of action. Both these objects will be carried into effect without fail if all will follow the guidance of the Apostolic Sec as their rule of life and obey the bishops whom the Holy Ghost has placed to rule the Church of God. (Acts xx, 28.) The defence of Catholicism, indeed, necessarily demands that in the profession of doctrines taught by the Church all shall be of one mind and all steadfast in

believing; and care must be taken never to connive, in any way, at false opinions, never to withstand them less strenuously than truth allows. In mere matters of opinion it is permissible to discuss things with moderation, with a desire of searching into the truth, without unjust suspicion or angry recriminations.

Hence, lest concord be broken by rash charges, let this be understood by all, that the integrity of Catholic faith cannot be reconciled with opinions verging on Naturalism or Rationalism, the essence of which is utterly to sterilize Christianity, and to install in society the supremacy of man to the exclusion of God. Further, it is unlawful to follow one line of conduct in private and another in public, respecting privately the authority of the Church, but publicly rejecting it; for this would amount to joining together good and evil, and to putting man in conflict with himself; whereas he ought always to be consistent, and never in the least point nor in any condition of life to swerve from Christian virtue.

But in matters merely political, as for instance the best form of government, and this or that system of administration, a difference of opinion is lawful. Those, therefore, whose piety is in other respects known, and whose minds are ready to accept in all obedience the decrees of the Apostolic See, cannot in justice be accounted as bad men because they disagree as to subjects We have mentioned; and still graver wrong will be done them, if—as We have more than once perceived with regret—they are accused of violating, or of wavering in, the Catholic faith.

Let this be well borne in mind by all who are in the habit of publishing their opinions, and above all by journalists. In the endeavor to secure interests of the highest order there is no room for internal strife or party rivalries; since all should aim with one mind and purpose to make safe that which is the common object of all—the maintenance of Religion and of the State. If, therefore, there have hitherto been dissensions, let them henceforth be gladly buried in oblivion. If rash or injurious acts have been committed, whoever may have been at fault, let mutual charity make amends, and let the past be redeemed by a special submission of all to the Apostolic See.

In this way Catholics will attain two most excellent results: they will become helpers to the Church in preserving and propagating Christian wisdom; and they will confer the greatest benefit on civil society, the safety of which is exceedingly imperilled by evil teachings and bad passions.

This, Venerable Brethren, is what We have thought it Our duty to expound to all nations of the Catholic world touching the Christian constitution of States and the duties of individual citizens.

It behooves Us now with earnest prayer to implore the protection of Heaven, beseeching God, who alone can enlighten the minds of men and move their will, to bring about those happy ends for which We yearn and strive, for His greater glory and the general salvation of mankind. As a happy augury of the divine benefits, and in token of Our paternal benevolence, to you, Venerable Brothers, and to the clergy and to the whole people committed to your charge and vigilance, We grant lovingly in the Lord the Apostolic Benediction.

Chapter XXIII

COMMENTS ON THE "CHRISTIAN CONSTITUTION OF STATES"

1. (p. 285) The Moral Authority of Governments

The principle laid down in this paragraph is sometimes confused by ignorant persons with the theory of "the divine right of kings." The resemblance between the two doctrines is entirely superficial. In its logical and best known form, the latter doctrine comes down to us from King James I, of England. He maintained that his right to rule was conferred upon him by God directly and positively. That is to say, God did not bestow that power upon the king because the latter was designated by the people, nor because he was the constitutional heir to the throne, nor on account of any other fact, event, or situation. God selected and gave authority to the King (James I and every other king) by direct and positive action, independently of human wills or institutions, just as he chose and empowered Saul to rule over Israel. (Sec *The Political Works of James I.* Harvard University Press; 1918.) Hence the king rules by divine right in the complete sense of that phrase. The refutation of this theory, and the statement of the Catholic theory concerning the manner in which moral authority is conferred upon the ruler, are presented in subsequent pages of this volume.

In the paragraph that we are discussing, Pope Leo declares that the authority to rule comes from God, indeed, but points out that it arrives by way of nature. It is not conferred by a divine act of supernatural intervention, as asserted by King James. Ruling authority, divinely sanctioned, comes into existence as a necessary consequence of the nature and end of human beings. They cannot live right and reasonable lives

without civil society; civil society cannot function effectively without a governing authority; therefore, the latter, just like political society itself, is necessary for human welfare, and consequently sanctioned and ratified by the Creator and Governor of the human race. Hence the political ruler has true moral authority to govern, and the citizens or subjects have a moral obligation to obey.

The authority and ordinances of the rulers of a State are quite different from the authority and regulations of the president of a literary society or the leader of a whist club. Civil laws are, generally speaking, binding in conscience, for the simple reason that they proceed from functionaries who hold power from God, "the Sovereign Ruler of all." Since only God has the authority to impose moral obligation upon human beings, political rulers can enact morally obligatory ordinances only because their authority is derived from Him. In this doctrine the authority of the government and the obligations of the governed are placed far above considerations of mere expediency, of arbitrary caprice, or of physical might.[1]

Whether the authority of the political ruler, as thus expounded, may be called a "divine right," is objectively a question of language. In itself the phrase is not inappropriate. Owing, however, to its association with the false and decidedly unpopular theory of James I, it should be avoided and repudiated by all who reject that theory. Moreover, we must remem-

[1] "The true remedy for many of the disorders with which we are troubled, is to be found in a clearer understanding of civil authority. Rulers and people alike must be guided by the truth that the State is not merely an invention of human forethought, that its power is not created by human agreement or even by nature's device. Destined as we are by our Maker to live together in social intercourse and mutual co-operation for the fulfilment of our duties, the proper development of our faculties and the adequate satisfaction of our wants, our association can be orderly and prosperous only when the wills of the many are directed by that moral power which we call authority. This is the unifying and co-ordinating principle of the social structure. It has its origin in God alone. In whom it shall be vested and by whom exercised, is determined in various ways, sometimes by the outcome of circumstances and providential events, sometimes by the express will of the people. But the right which it possesses to legislate, to execute and administer, is derived from God himself."—(From the Pastoral Letter of the American Hierarchy, 1920.)

ber that the "divine right" to govern, in the explanation of Pope Leo, attaches quite as truly to the president of a republic as to the head of a monarchy.

The principal concern of Pope Leo in this paragraph is not to show precisely how moral authority is conferred upon a ruler or government, but rather to point out the fact and the nature of that authority. For the right ordering of human life it is necessary that civil society should exist, that government should function, and that governmental ordinances should impose moral obligations. That is all that Pope Leo says concerning the *manner* in which moral authority comes to the ruler. The conditions that are necessary to justify the possession and exercise of political power by any individual or group of individuals,—whether there must be a popular election or some other manifestation of the will of the people, whether certain constitutional forms must be observed, whether the ruler derives his credentials from a happy concatenation of events,—are questions that Pope Leo does not touch in this place. Nor does he assert or imply that every actual ruler is legitimate and therefore possessed of moral authority. He merely assumes the case of a government that is legitimately established, and points out the moral character of its authority. His statements are directed against those who would deny the ethical nature of political power, not against any particular theory of the way in which it legitimately reaches the ruler.

2. (p. 285) Various Forms of Government

Two important principles are contained in the first two sentences of this paragraph. None of the three classical forms of government (monarchy, aristocracy, democracy) nor any of their modifications or combinations, is morally unlawful or unfavorably regarded by the Catholic Church. It is true that many Catholic writers have defended the monarchical as superior to the other forms, but the Church has never officially sanctioned such a view, nor formally expressed a preference for any of the other polities.

The second important principle in this statement of Pope Leo concerns the supreme test of a good form of government.

That test is the general welfare. Since this is the end of all government, any form of polity that promotes it in any given circumstance is morally legitimate and reasonable. By implication, therefore, a form of government which is destructive of the general welfare is not legitimate and ought, through lawful means, to be supplanted by some other form which will attain the true end of a political society.

3. (p. 286) Public Profession of Religion by the State

To the present generation this is undoubtedly "a hard saying." The separation of Church and State, which obtains substantially in the majority of countries, is generally understood as forbidding the State to make "a public profession of religion." Nevertheless, the logic of Pope Leo's argument is unassailable. Men are obliged to worship God, not only as individuals, but also as organized groups. Societies have existence and functions over and above the existence and functions of their individual members. Therefore, they are dependent upon God for their corporate existence and functions, and as moral persons owe corporate obedience to His laws, formal recognition of His authority, and appropriate acts of worship. To deny these propositions is to maintain the illogical position that man owes God religious worship under only one aspect of his life, in only one department of his life.

Since the State is by far the most important of the secular societies to which man belongs, its obligation to recognize and profess religion is considerably greater and stricter than is the case with the lesser societies. And the failure of the State to discharge this obligation produces evil results of corresponding gravity. It exhibits in most extensive proportions the destructive power of bad example.[2]

The logic of Pope Leo's position receives strong confirmation

2 "The State itself should be the first to appreciate the importance of religion for the preservation of the common weal. It can ill afford at any time, and least, of all in the present condition of the world, to reject the assistance which Christianity offers for the maintenance of peace and order. 'Let princes and rulers of the people,' says Pope Benedict XV, 'bear this in mind and bethink themselves whether it be wise and salutary, either for public authority or for the nations themselves, to set aside the holy religion of Jesus Christ, in which that very authority may find such powerful support and de-

from the attempts that have been made to enforce consistently the opposite theory. In governments which profess absolute neutrality toward religion, the actual policy is one of hostility. This is shown in a hundred ways (some of them open and some quite subtle) in the recent history of France, and of some of the countries south of the United States. Such a policy is logically defensible on no theory except Atheism. It is conceivable that a State might explicitly adopt the opinion that there is no God, and therefore prohibit divine worship as injurious to the public welfare. The practice of repression would follow logically from the theoretical position. But the persecuting governments to which reference has just been made, have not had the courage, or the hardihood, to support their practical policy by a frank avowal of the corresponding theory. As a consequence, they exhibit a contradiction between theory and practice, and demonstrate the impossibility and unveracity of the theory of neutrality.

The State cannot avoid taking an attitude toward religion. In practice that attitude will necessarily be positive, either for or against. There can be no such actual policy as impartial indifference.

This proposition receives further confirmation from the attitude of those States which refrain from any formal acceptance of religion in theory, and yet accord it some measure of recognition in practice. The policy of the United States is the most conspicuous and significant. Our Federal and State constitutions forbid the legal establishment of any form of religion, thereby ensuring the separation of Church and State, and ap-

fense. Let them seriously consider whether it be the part of political wisdom to exclude from the ordinance of the State and from public instruction, the teaching of the Gospel and of the Church. Only too well does experience show that when religion is banished, human authority totters to its fall. That which happened to the first of our race when he failed in his duty to God, usually happens to nations as well. Scarcely had the will in him rebelled against God when the passions arose in rebellion against the will; and likewise, when the rulers of the people disdain the authority of God, the people in turn despise the authority of men. There remains, it is true, the usual expedient of suppressing rebellion by force; but to what effect? Force subdues the bodies of men, not their souls'" (Encyc., *Ad Beatissimi,* November 1, 1914).—From the Pastoral Letter of the American Hierarchy, 1920.

parently making inevitable a policy of neutrality or indifference. Nevertheless, our Federal and State governments have never adopted such a policy. Their attitude has been one of positive friendliness toward religion. Some of the manifestations and expressions of this policy are: The appointment of an annual day of public thanksgiving by the President of the United States and the Governors of the several States; the employment of chaplains to open with prayer the sessions of the National and State legislatures; the provision of chaplains for the Army and Navy; the exemption of church property from taxation; the general policy of promoting the interests of religion, and many other acts and practices, for example, the recent action of the school board of New York City in placing the school buildings at the disposal of the various denominations for the purpose of giving religious instruction.

These institutions and practices are in fact what Pope Leo calls "a public profession of religion." As compared with the degree of recognition accorded in a formal union of Church and State, they are, indeed, feeble and inconspicuous. Nevertheless, they do exemplify the principle. "The public profession of religion," is susceptible of very many forms and degrees, from the adoption, support, and toleration of only one creed, to the slight manifestations of recognition shown by countries which do not go even as far as the United States.

It is not here contended that the latter kind of attitude is normal, or desirable in the abstract. The point to be kept in mind is that the principle laid down by Pope Leo is not to be contrasted with the policy of separation of Church and State. His principle is directly and universally opposed only to a policy of specious neutrality, which in practice is always a policy of hostility. To assume that "the public profession of religion" always calls for something radically different from the arrangement obtaining in the United States is to be guilty of confused thinking and to ignore important facts of experience.

4. (p. 28G) Attitude of the State Toward the Church

But Pope Leo goes further. He declares that the State must not only "have care for religion," but recognize the *true* religion.

This means the form of religion professed by the Catholic Church. It is a thoroughly logical position. If the State is under moral compulsion to profess and promote religion, it is obviously obliged to profess and promote only the religion that is true; for no individual, no group of individuals, no society, no State is justified in supporting error or in according to error the same recognition as to truth.[8]

Those who deny this principle may practically all be included within three classes: First, those who hold that truth will by its own power speedily overcome error, and that the State should consequently assume an attitude of impartiality toward both; second, those who assume that all forms of religion are equally good and true; third, those who hold that it is impossible to know which is the true one. The first theory is contradicted and refuted by the persistence of a hundred errors side by side with truth for centuries. In the long run and with sufficient enlightenment, truth will be sufficiently mighty to prevail by its own force and momentum, but its victory can be greatly hastened by judicious assistance from the State and, indeed, from every other kind of organized social power. The successful opposition of the Church to the Protestant Reformation in those countries where the Church had the sympathy and assistance of the State, is but one of a vast number of historical illustrations. Against the theory that all forms of religion are equally sound, it is sufficient to cite the principle of contradiction; two contradictory propositions cannot be true, any more than yes can be identified with no. Finally, it is not impossible to know which religion is the right one, inasmuch as the Church of Christ comes before men with credentials sufficient to convince all those who will deliberately examine the evidence with a will to believe. The argument and the proofs are summarized by Pope Ixjo in the paragraphs immediately following the one now under consideration. Such is the objective logic of the situation. In a particular case the public authorities can reject and frequently have rejected the evidence for the divinity of the Catholic Church.

3Cf. Cardinal Billot, *De Ecclcna Christi,* qu. xix, which is a recent and comprehensive presentation oí the whole subject.

It is not of such rulers or such States that Pope Leo is speaking in this part of the encyclical. The principle that he is here defending has complete and unconditional application only to Catholic States. Between these and the Catholic Church the normal relation is that of formal agreement and mutual support; in other words, what is generally known as the union of Church and State. In his encyclical on "Catholicity in the United States," the same Pope gave generous praise to the attitude of our government and laws toward religion, but immediately added:

"Yet, though all this is true, it would be very erroneous to draw the conclusion that in America is to be sought the type of the most desirable status of the Church, or that it would be universally- lawful or expedient for State and Church, to be, as in America, dissevered and divorced. The fact that Catholicity with you is in good condition, nay, is even enjoying a prosperous growth, is by all means to be attributed to the fecundity with which God has endowed His Church, in virtue of which unless men or circumstances interfere, she spontaneously expands and propagates herself; but she would bring forth more abundant fruits if, in addition to liberty, she enjoyed the favor of the laws and the patronage of public authority."

Occasionally some Catholics are found who reject this doctrine on the ground that alliances between Church and State have done more harm than good. Space is wanting here for an adequate discussion and refutation of this contention. Nor is a formal criticism necessary. Men who take this position are indulging in what the logicians call "the fallacy of the particular instance." Because they find some forms of union between Church and State working badly in some countries for certain periods of time, they rush to the conclusion that all forms are bad, at all times, in all countries. An adequate evaluation of the arrangement, a judicious weighing of the good effects against the bad effects, supposes a knowledge of history far more comprehensive than is possessed by any of these critics. Men who lack this knowledge ought to show a becoming modesty and hesitancy in making any general pronouncement on the complex effects of this policy.

One observation may be made which is calculated to prevent much misconception and false reasoning on this subject. It is that the *principle* of union between Church and State is not necessarily dependent upon *any particular form of union that has actually been in operation.* When men condemn the principle because they see that State support of the clergy, or State nomination of bishops, has in certain cases been harmful to the Church, they are laboring under a false assumption. Neither of these particular arrangements is required by the principle. Other critics identify the principle with the particular application of it that obtained in the Middle Ages. This assumption is likewise illogical and incorrect. The distinguished German theologian, Father Pohle, writes thus: "The intimate connection of both powers during the Middle Ages was only a passing and temporary phenomenon, arising neither from the essential nature of the State nor from that of the Church." * In the same article, he points out three grave evil results of this intimate connection; namely, excessive meddling by ecclesiastical authorities in political affairs, conflicts between the two powers which produced diminished popular respect for both, and "the danger that the clergy, trusting blindly to the interference of the secular arm in their behalf, may easily sink into dull resignation and spiritual torpor, while the laity, owing to the religious surveillance of the State, may develop rather into a race of religious hypocrites and pietists than into inwardly convinced Christians."

All that is essentially comprised in the union of Church and State can be thus formulated: The State should officially recognize the Catholic religion as the religion of the commonwealth; accordingly it should invite the blessing and the ceremonial participation of the Church for certain important public functions, as the opening of legislative sessions, the erection of public buildings, etc., and delegate its officials to attend certain of the more important festival celebrations of the Church; it should recognize and sanction the laws of the Church ; and it should protect the rights of the Church, and the religious as well as the other rights of the Church's members.

Does State recognition of the Catholic religion necessarily

* *Catholic Encyclopedia.* Article, "Toleration."

imply that no other religion should be tolerated? Much depends upon circumstances and much depends upon what- is meant by toleration. Neither unbaptized persons nor those born into a non-Catholic sect, should ever be coerced into the Catholic Church. This would be fundamentally irrational, for belief depends upon the will and the will is not subject to physical compulsion. Should such persons be permitted to practice their own form of worship? If these are carried on within the family, or in such an inconspicuous manner as to be an occasion neither of scandal nor of perversion to the faithful, they may properly be tolerated by the State. At least, this is the approved Catholic doctrine concerning the religious rites of the non-baptized. Only those religious practices of unbelievers which are contrary to the natural law, such as idolatry, human sacrifice and debauchery, should be repressed? The best indication of the Church's attitude on this question is the toleration and protection accorded all through the Middle Ages to Judaism and Jewish worship by the Popes in their capacity of civil rulers of the Papal States. The same principle regarding freedom of worship seems fairly applicable to baptized persons who were born into a non-Catholic sect. For their participation in false worship does not necessarily imply a wilful affront to the true Church nor a menace to public order or social welfare. In a Catholic State which protects and favors the Catholic religion and whose citizens are in great majority adherents of the true faith, the religious performances of an insignificant and ostracized sect will constitute neither a scandal nor an occasion of perversion to Catholics. Hence there exists no sufficient reason to justify the State in restricting the liberty of individuals.

Quite distinct from the performance of false religious worship and preaching to the members of the erring sect, is the propagation of the false doctrine among Catholics. This could become a source of injury, a positive menace, to the religious welfare of true believers. Against such an evil they have a right of protection by the Catholic State. On the one hand, this propaganda is harmful to the citizens and contrary to public welfare; on the other hand, it is not among the natural rights of the

®Cf. Suarez, *De Fide,* diap. xviii, sec. *4,* No. 9, 10.

propagandists. Rights are merely means to rational ends. Since no rational end is promoted by the dissemination of false doctrine, there exists no right to indulge in this practice. The fact that the individual may in good faith think that his false religion is true gives no more right to propagate it than the sincerity of the alien anarchist entitles him to advocate his abominable political theories in the United States, or than the perverted ethical notions of the dealer in obscene literature confer upon him a right to corrupt the morals of the community. No State could endure on the basis of the theory that the citizen must always be accorded the prerogative of doing whatever he thinks right. Now the actions of preaching and writing are at once capable of becoming quite as injurious to the community as any other actions and quite as subject to rational restraint.

Superficial champions of religious liberty will promptly and indignantly denounce the foregoing propositions as the essence of intolerance. They are intolerant, but not therefore unreasonable. Error has not the same rights as truth. Since the profession and practice of error are contrary to human welfare, how can error have rights? How can the voluntary toleration of error be justified? As we have already pointed out, the men who defend the principle of toleration for all varieties of religious opinion, assume either that all religions are equally true or that the true cannot be distinguished from the false. On no other ground is it logically possible to accept the theory of indiscriminate and universal toleration.

To the objection that the foregoing argument can be turned against Catholics by a non-Catholic State, there are two replies. First, if such a State should prohibit Catholic worship or preaching on the plea that it was wrong and injurious to the community, the assumption would be false; therefore, the two

"In its decision sustaining the law for the suppression of polygamy in Utah, the United States Supreme Court thus characterized the propagation of the doctrine of polygamy: "The existence of such a propaganda is a blot on our civilization. The organization of a community for the spread and practice of polygamy is, in a measure, a return to barbarism. It is contrary to the spirit of Christianity and of civilization which Christianity has produced in the Western world." *Laic Corporation of the Church of Jesus Christ vs. United States,* 136 U. S. 1.

cases are not parallel. Second, a Protestant State could not logically take such an attitude (although many of them did so in former centuries) because no Protestant sect claims to be infallible. Besides, the Protestant principle of private judgment. logically implies that Catholics may be right in their religious convictions, and that they have a right to hold and preach them without molestation.

Such in its ultimate rigor and complete implications is the Catholic position concerning the alliance that should exist between the Church and a Catholic State. While its doctrinal premises will be rejected by convinced non-Catholics, its logic cannot be denied by anyone who accepts the unity of religious truth. If there is only one true religion, and if its possession is the most important good in life for States as well as individuals, then the public profession, protection, and promotion of this religion and the legal prohibition of all direct assaults upon it, become one of the most obvious and fundamental duties of the State. For it is the business of the State to safeguard and promote human welfare in all departments of life. In the words of Pope Leo, "civil society, established for the common welfare, should not only safeguard the well-being of the community, but have also at heart the interests of its individual members, in such mode as not in any way to hinder, but in every manner to render as easy as may be, the possession of that highest and unchangeable good for which all should seek."[7]

In practice, however, the foregoing propositions have full application only to the completely Catholic State. This means a political community that is cither exclusively, or almost exclusively, made up of Catholics. In the opinion of Father Pohle, "there is good reason to doubt if there still exists a purely Catholic State in the world." The propositions of Pope Pius IX condemning the toleration of non-Catholic sects do not now, says Father Pohle, "apply even to Spain or the South American republics, to say nothing of countries possessing a greatly mixed population." He lays down the following general rule: "When several religions have firmly established themselves and taken root in the same territory, nothing else remains for the State than

7 *Supra,* pago 287.

either to exercise tolerance towards them all, or, as conditions exist today, to make complete religious liberty for individuals and religious bodies a principle of government.'"[8] Father Moulait makes substantially the same statement: "In a word, it is necessary to extend political toleration to dissenting sects which exist in virtue of a fact historically accomplished."[9]

The reasons which justify this complete religious liberty fall under two heads: First, rational expediency, inasmuch as the attempt to proscribe or hamper the peaceful activities of established religious groups would be productive of more harm than good; second, the positive provisions of religious liberty found in the constitutions of most modern States. To quote Father Pohle once more: "If religious freedom has been accepted and sworn to as a fundamental law in a constitution, the obligation to show this tolerance is binding in conscience." The principle of tolerance, he continues, cannot be disregarded even by Catholic States "without violation of oaths and loyalty, and without violent internal convulsions."[10]

Suppose that the constitutional obstacle to proscription of non-Catholics has been legitimately removed and they themselves have become numerically insignificant: what then would be the proper course of action for a Catholic State? Apparently, the latter State could logically tolerate only such religious activities as were confined to the members of the dissenting group. It could not permit them to carry on general propaganda nor accord their organization certain privileges that had formerly been extended to all religious corporations, for example, exemption from taxation. While all this is very true in logic and in theory, the event of its practical realization in any State or country is so remote in time and in probability that no practical man will let it disturb his equanimity or affect his attitude toward those who differ from him in religious faith. It is true, indeed, that some zealots and bigots will continue to attack the Church because they fear that some five thousand years hence the United States may become overwhelmingly Catholic and may then re-

8 *Catholic Encyclopedia, loc. cit.*
9 *L'Eglise et l'Etat,* p. 311 (Paris, 1887).
10 *Loc. cit.*

strict the freedom of non-Catholic denominations. Nevertheless, we cannot yield up the principles of eternal and unchangeable truth in order to avoid the enmity of such unreasonable persons. Moreover, it would be a futile policy; for they would not think us sincere.

Therefore, we shall continue to profess the true principles of the relations between Church and State, confident that the great majority of our fellow citizens will be sufficiently honorable to respect our devotion to truth, and sufficiently realistic to see that the danger of religious intolerance toward non-Catholics in the United States is so improbable and so far in the future that it should not occupy their time or attention.

5. (p. 288) Comparative Dignity of Church and State

No one who accepts the proposition that the Son of God founded a church to teach religion and bring souls to Heaven, can logically reject the principle laid down by Pope Leo in this paragraph. The spiritual and eternal interests of men are surely more important than their material and temporal interests; therefore, the society which deals with and promotes the former is more exalted than the society which cares for the latter. Emphatically, then, the Church is "not inferior to the civil power."

For upwards of a century', however, the theory has been upheld by numerous writers on political science, and put in practice by many civil governments, that the State, not the Church, is the supreme social organization in the world. This theory assumes its most extreme and consistent forms in the Hegelian conception of the omnipotent State and in the Austinian theory of sovereignty. According to Hegel, the State is the highest manifestation and development of the universal reason; to it all individuals and all social institutions are subordinate, and from it they all derive their importance and the justification of their existence. Hence the State is the highest institution on earth. According to the English political theorist, John Austin, the sovereignty of the State is unlimited. Every independent State is legally sovereign within its own territory, since it is not subject to other States, nor subordinate to any part of itself

or any society within itself. While sovereignty thus defined is a purely legal concept, inasmuch as it merely describes the legal supremacy of each State over its own territory and the mutual independence of all States, it has been expanded so as to include moral implications. Is a sovereign State independent, not merely of other States, but of the moral law and the ordinances of religion? May a State reasonably do anything that it has the constitutional authority to do, regardless of the claims of individuals or societies? The answer given to these questions by most political theorists and by many political rulers has been in the affirmative. It has been in effect that the sovereignty of the State is not only legally but morally unlimited. The State is supreme and may do what it pleases. Among the English speaking peoples, as well as in Germany, the theory of State absolutism has made considerable progress both in theory and in practice.

From this point of view, the Church appears as not simply the less important of the two great societies, but merely one of several private associations existing within and subordinate to the State. On the other hand, the State is regarded as the highest expression of social life, co-extensive and all but identical with human society itself. To it is attributed the moral authority and supremacy that men once acknowledged as the prerogative of the Church. It usurps the place in society formerly held by the Church. It makes itself the spiritual and moral, as well as the temporal and civil head of society, the final determinant of social right and social wrong, social justice and social injustice. This is far more than a reversal of the doctrine set down by Pope Leo. As we shall see presently, the Catholic doctrine concedes, nay, maintains, that the State is co-ordinate with the Church and equally independent and supreme in its own distinct sphere. According to the Catholic position, the Church is superior to the State only in the dignity of its nature and end, not in those matters that are the peculiar province of the State. According to the theory that we are now criticising, the State is supreme over the Church in all departments of life. The Church has no co-ordinate and independent authority, nor any province that is exclusively its own.

Happily there are many indications of a reaction against this

theory of State omnipotence, this deification of the State. Says Prof. Harold J. Laski: "The two characteristic notes of change are present in the dissatisfaction with the working of law, on the one hand, and the reassertion of natural rights upon the other."[11] These are really two aspects of the same conception. Catholics welcome this reaction because they have always contended that the State, as well as the individual, is governed and limited by the natural law, that is, by the moral law which we know by the light of reason. They likewise insist that the actions of the State should be conformed to the law of Christian revelation, of which the guardian and interpreter is the Catholic Church. In our opposition to the theory of State omnipotence, we cannot, indeed, go as far as Professor Laski, in his statement that, "sovereignty means no more than the ability to secure consent";[12] for we recognize that the State has true moral authority, and that within certain limits, this authority is rationally and morally independent of the assent of the citizens. We do not accept that moral anarchism which would permit any social group at any time to withhold its allegiance and fix the limits of sovereignty. Our contention is simply that the sovereignty and authority of the State are not absolute, but are limited and defined by the proper end of the State and its methods of operation, and we insist that the sphere of the Church is not only distinct from that of the State, but higher in dignity and in importance.

6. (p. 289) The Church as Civil Ruler

The supreme and independent authority in the spiritual realm cannot be exercised adequately unless it is recognized by the rulers of States. Pope Leo calls attention to such recognition in the official relations between civil governments and the Church for many centuries. Then he points out that "it was not without a singular disposition of God's providence," that this independence and freedom of action were for a long time safeguarded through the Church's possession and exercise of civil

[11] *Authority in the Modem State,* p. 118.

[13] *Studies in the Problem of Sovereignly,* p. 14. See, however, "The Totalitarian Systems" in Chapter IX.

sovereignty. The reference is, of course, to the Papal States, the Temporal Power, which the government of Italy took by force from the Church in 1870. Pope Leo does not say that the Church must have civil power over the Papal States, or over any other territory, at all times and in all circumstances as "the surest safeguard of her independence." He is speaking historically. The end that he desires to sec attained is freedom for the Church to exercise her spiritual and moral mission. Conceivably that end might be reached by other means than that of temporal sovereignty. It might be realized by adequate international recognition and guarantees.

7. (p. 289) The Independence of the State

In the clearest and briefest terms, Pope Leo here asserts that Church and State are mutually independent, and that each is supreme in its own province. This is the most authoritative and convincing answer to the charge that the Catholic doctrine makes the State subject to the Church. In the field of temporal affairs, in all that pertains to civic welfare, the State is supreme, and the Church has neither the desire nor the authority to interfere. It is true that the actions of the State, whether in the field of legislation or administration, have moral aspects, inasmuch as they are human actions; therefore, they arc in some manner subject to the Church as the interpreter of the moral law. On this point we must make two important observations.

First, the proportion of State enactments and performances which raise a distinct and important moral question is exceedingly small. The great majority of the acts of government do not compel or permit the citizen to ask himself whether he is obliged in conscience to refuse his adherence. Therefore, they are none of the Church's business. In the second place, when the Catholic citizen is constrained to regard a civil law or administrative action as unjust or immoral, he acts upon the same principle and adopts essentially the same course of action as the conscientious citizen who is not a Catholic. Even though he takes his moral guidance from the Church, his refusal of civil obedience does not put the Church in the position of interfering in the affairs of the State, or of denying the proper supremacy of the

State. In deciding whether the obnoxious law ought to be obeyed, the non-Catholic citizen may consult his Bible, or his minister, or his church, or merely his own conscience. In a similar situation the Catholic citizen may consult his priest or his bishop, or the Pope. In neither situation is there a denial of the authority and supremacy of the State.

The case stands thus: While the authority of the State is supreme in civil affairs, it is not in every respect unlimited. It must be exercised in conformity with the moral law. Whether a particular act of the State is contrary to the moral law, is a question which obviously must be decided by some other authority or tribunal than the State itself, since the State has no competence in the field of morals. The solution will be sought by one man from his conscience alone, by another from the Church. In neither case is it proper to say that the supremacy of the State is denied.[13]

In times past the authorities of the Church occasionally seemed to exceed this function of moral interpretation of governmental acts. Apparently they sometimes claimed direct and immediate jurisdiction over the State; for example, when the Popes deposed temporal rulers. A brief review of the theological opinion on this subject, a brief notice of one famous historical instance, will suffice to meet this particular issue, and will at the same time make more clear the general doctrine concerning the limits of the State's independence.

No formal, dogmatic pronouncement has ever been made by the Church regarding her precise authority in civil affairs. Theologians have discussed the question at great length, but their opinions have not been unanimous. Three theories have found

[13] An extended discussion of some important controversies in which both Catholic and Protestant bodies refused to accept the unlimited authority of the State, will be found in Laski's *Studies in the Problem of Sovereignty.* Professor Laski declares that the true attitude is that which "denies the validity of any sovereign power save that of right, and [which] urges that the discovery of right is, on all fundamental questions, a search upon which the separate members of the State must individually engage" *(Authority in the Modem State,* p. 122). In this search, however, the individual who is a Catholic has a very great advantage over all others, since he can appeal to and apply the very definite, systematic, and authoritative moral teaching of the Church.

favor among them: The Church has direct power over States; her power in this field is only indirect; her power is merely directive and of counsel.

According to the first theory, both spiritual and temporal power have been committed by God to the Church; consequently civil rulers derive their authority from, are responsible to, and may be deposed by the Church. This opinion was never held by more than a few writers, chiefly Henry of Segusia (13th century) and Augustus Triumphus (14th century). The great majority of theologians in all ages have maintained that the power of the Church over the State is merely indirect. That is to say, the Church has authority to affect civil rulers or their ordinances only when and insofar as these have a distinct bearing upon religion or morals. This power is called indirect because it is not formally civil or political, but only spiritual with indirect civil effects and implications. According to this theory, neither a Pope nor a General Council, nor any other organ of the Church has the authority directly to depose a civil ruler.

When a Pope excommunicated a prince or king, the act was clearly one of spiritual jurisdiction. When, as sometimes happened, it was followed by a Papal declaration releasing the subjects of the excommunicated person from their oaths of allegiance, the latter pronouncement was likewise of a spiritual nature; for it directly concerned the binding obligation of an oath, which is primarily a religious engagement. The question whether the subjects of a Christian prince who had apostatized from the true faith were still obliged to give him obedience, was obviously a question of religion and morals. Unless we maintain that the State is the supreme authority in matters of morality and religion, we cannot concede it the right to decide such a question. Therefore, an authoritative decision could come only from the Church. The effect of a decision unfavorable to the ruler was, indeed, quite the same as though the Pope had claimed the right to depose him directly. The king lost his kingdom. Nevertheless the course of action followed by the Pope was spiritual and moral throughout. At no point did it involve any claim of direct civil power.

With regard to the deposing power in the Middle Ages, we

must remember that it was in many countries specifically recognized and accepted by the public law. To that extent the Pope did, indeed, exercise a direct power over the civil ruler, but it was a power that came from the concurrence of the State, not merely from his position as head of the Church. In all cases where such concurrence was not given, the deposing power of the Pope was only indirect, in virtue of his spiritual and moral jurisdiction.

Perhaps the logic and the precise nature of this indirect civil authority of the Church can be more clearly described if we abstract from the question of excommunication, oaths of allegiance and every other circumstance that was peculiar to the Middle Ages. Let us consider one or two modern instances. Suppose that the people of Russia were suddenly converted to the faith of the Roman Catholic Church, and that they appealed to the Pope for an authoritative judgment as to whether they were obliged to support the government of Lenine and Trotzky. Obviously this is a moral, not a legal question. A great number of the world's newspapers, publicists and politicians, would give a negative answer, and their reasons would necessarily be stated in terms of ethics. Their moral standards would be in most cases provided by their private judgment, by the dictates, let us say, of their own consciences. We will suppose that the Russians place more confidence in the authoritative moral judgment of the Catholic Church than in that of journalists or politicians. After due consideration of all the facts (a process frequently disregarded by journalists and politicians) the Pope decides that the people of Russia are under no moral obligation to continue their support of the Communist regime. In consequence of the acceptance of this decision by the Russian people, the government is unable to continue. In effect the Pope has deposed Lenine and Trotzky.

Many contemporary persons who would loudly applaud this action of the Pope because they like the result to which it leads, are prone to denounce the deposing power of the Popes, as exercised in past ages, and to resent any similar exercise of the indirect power of the Church in any other department of civil affairs. Yet all such actions exemplify the same principle;

namely, that the Church, as the guardian and authoritative interpreter of the moral law, has as much right to pronounce upon the morality of political actions and relations as upon the morality of the actions and relations of private societies and individuals.

For those who deny this indirect power of the Church over the State, this right to affect political affairs having a religious or moral aspect,—the only practical alternative is to accept the theory that the power of the State is unlimited morally as well as legally. This means that whatever is done by the State, any State, even the State of Lenine and Trotzky, is morally right, and all actions in opposition thereto are morally wrong. Nor is there any escape from this dilemma by assuming that the subjects or citizens of a conceivably immoral regime may properly refuse obedience under the sanction of their own consciences. In this case they are setting their consciences above the State. They are giving allegiance to another authority in preference to the State. Therefore, they are quite as disloyal to the State as are our imaginary Russians whose consciences bid them to seek and accept the moral judgment of the Catholic Church. In both cases the fundamental appeal is to the consciences of the citizens. In both cases conscience denies that the State is morally omnipotent and infallible. The difference between the operations of conscience in the two cases is a difference of method, not of principle.

Let us consider a milder instance of the indirect power, one that involves not the rejection of a government, but the refusal to obey a particular law. For several years a numerous and well organized band of bigots have been striving for an amendment to the Constitution of Michigan which would prohibit the operation of parochial schools. Suppose this aim were accomplished, and the authorities of the Church formally declared the amendment to be unjust and not binding upon Catholics. This would be an exercise of the indirect power of the Church over the State. The Church would have interfered with, opposed, an ordinance of the State on the ground that the religious and moral rights of Catholic citizens were violated. But the Lutheran church in Michigan would probably take the same stand, and

continue to maintain its parochial schools. While the authorities of this church would probably not defend their position by any formal claim to indirect power over the actions of the State, their course would have quite the same effect practically. It would imply the right to determine when a State ordinance is out of harmony with the ordinances of religion and morality, and the right to refuse obedience to civil regulations which were found to be of this character.

We recur to the statement of the issue by Professor Laski: "We deny the validity of any sovereign power save that of right." And "the discovery of right," which Professor Laski declares to be the duty of the individual members of the State, is for the Catholic citizen achieved in the authoritative decisions of the Church. That is the whole of the situation, considered practically. If a moral decision of the Church which is adverse to a government or a law, is accepted by a sufficiently large section of the citizens, the State will find itself in difficulty. But the same thing will happen if a sufficient number of citizens are moved by their individual consciences to repudiate the actions or laws of the government. In both cases the independence of the State is not questioned within its legitimate field; it is denied only when the State transgresses the moral law.

In the light of the foregoing discussion, the pretended menace to civil authority from the allegiance of Catholic citizens to the Church vanishes into thin air. The Church has no authority, direct, indirect, or of any other sort or description, over the acts of the State, so long as these are not in conflict with religion or morality. If any Church official, priest, bishop or Pope, were to command Catholics to vote a certain way on free trade, or an income tax, or a bonus for ex-soldiers, or any other political issue that involves no clear moral or religious question, the injunction would properly be disregarded by substantially all to whom it was addressed. Even in regard to political matters that have a distinct moral aspect, the authorities of the Church never issue instructions, or even advice, unless the question is one of very grave importance and its moral or religious implications are evident to all. Those who profess to believe that any modern State is threatened by the claim of the Church to pronounce

judgment on the moral phases of civil affairs, are ignorant alike of the principle and the manner in which it is customarily applied.

The third theory of the theologians concerning the power of the Church over the State, describes that power as "directing or guiding." Inasmuch as it does not differ greatly from the theory of indirect power, and inasmuch as it was never held by any considerable number of writers (Gosselin and Fenelon arc the principal names) it need not be further examined. The prevailing Catholic view is now, as it has been always, that which is known as the theory of indirect power.

Against this statement the objection may be made that the Bull, "Unam Sanctam," of Pope Boniface VIII formally defined the power of the Church over the State to be direct. This is the famous doctrine of the "two swords," the one spiritual and the other temporal, both "in the power of the Church." For our present purpose the following will be a sufficient reply to this objection. In the first place, even if Boniface had intended to assert that the Church has direct power over the State, this declaration would not be defined dogma, since the only dogmatic definition in the Bull is the statement, "that all must give due religious obedience to the Pope."[14] In the second place, all Catholic authorities from Pope Clement V (the second successor of Boniface) to the present, have interpreted the Bull as claiming only indirect power in civil matters.[10]

Our discussion of the authority of the Church over the State in matters having a moral or spiritual aspect, may be fittingly concluded by a quotation from Cardinal Hergenroether: "The indirect power of the Church in matters temporal in general, and in relation to the dethroning of princes in particular, is not a temporal but a spiritual power. It is exerted in matters temporal only in so far as they intrench upon religion, and in this way cease to be purely temporal."[10]

[14] Hergenroether, *Catholic Church and Christian State,* vol. I, p. 31.

[15] Cf. Cardinal Manning, *The Vatican Decrees and their Bearing on Civil Allegiance,* pp. 57-71.

[16] *Op. cil-,* vol. II, p. 209. Cf. the whole discussion of the question by Cardinal Hergenroether.

8. (p. 290) The Question of Joint Jurisdiction

After declaring that each of the two great societies is supreme in its own sphere, Pope Leo points out that there is a common province or borderland over which both have jurisdiction. "One and the same subject, related differently, . . . might belong to the jurisdiction and determination of both." Hence arises the problem of marking the limits of the two jurisdictions, of determining which parts, or aspects, or relations of a common field or subject belong to the Church, and which to the State. The principle of distinction is precisely the same as that which separates the provinces themselves. That principle is to be found in the respective natures and ends of the two societies. Jurisdiction and function are determined by nature and ends. Spiritual and moral matters constitute the province of the Church; civil and temporal matters that of the State. The latter has no authority over the administration of the sacraments; the former has nothing to do with the maintenance of the police force. In those borderland subjects which fall under the jurisdiction of both societies the distinguishing principle is the same. Those phases of a common subject which have a moral or religious character belong to the Church; those which are in their nature and objects temporal arc under the authority of the State. Thus, education is a concern of the State in its civil and social aspects, and of the Church in its religious and moral aspects.

While this principle is sufficiently clear in its conception, in the abstract, it is not always easily applied in practice. Hence we find frequent disagreements between Church and State concerning this borderland. Indeed, some States have gone so far as to claim the whole territory for their exclusive jurisdiction, and to deny that any of these "mixed" or common matters belong to the Church in any degree or under any aspect. For example, more than one State has instituted a monopoly of education, and has taught its own doctrines of religion and morality.

The principal matters that provoke controversy concerning the mutual limits of jurisdiction of the two societies, are marriage and education. According to Catholic doctrine, marriage is not merely a civil contract; it is also a sacrament. Since its

sacramental character, being a spiritual entity, is higher than its civil character, the matrimonial contract must be conceived and regulated in harmony with its spiritual nature and purposes. The Church cannot sanction or recognize a marriage which is contrary to either the revealed or the natural law. Therefore, she lays down conditions for the validity of the matrimonal contract, conditions which are necessary to safeguard its spiritual and sacramental character. A disagreement with the State arises whenever the latter independently attempts to regulate the validity of the contract.

According to the Catholic position, the State has no right to make laws affecting the validity of the marriages of baptized persons. The Church does not deny that the State has a civil and social interest in the marriage contract, but she maintains that her own standards of validity, her own regulations on this subject, being in accord with the moral laws of both nature and revelation, are wisely calculated to safeguard the civil and social as well as the spiritual welfare of the contracting parties and of mankind as a whole. She does not admit that human welfare, or social welfare, is promoted by State recognition of any marriage that she pronounces invalid, nor by State prohibition of any marriage that she declares to be valid. She recognizes, indeed, that the State may properly impose certain regulations which do not affect validity, but which are necessary for the common good, and therefore morally binding upon the persons concerned. Such are the requirements of residence, an official license to marry, the registration of the marriage by the officiating clergyman, and many others. But the Church maintains that none of these conditions is of sufficient importance to justify the State in declaring invalid a marriage in which they have been disregarded.

In Catholic countries maintaining a union between Church and State, the problem of the two jurisdictions in the matter of marriage has generally been adjusted in accordance with the foregoing statements. In non-Catholic and secular States, there has always been more or less disagreement, because the civil authority has insisted upon setting up its own standards for the validity of the matrimonial contract. The principal difference

has been concerning divorce and civil marriage. In this situation the Church endeavors to minimize the friction. For example, while she does not regard as invalid some marriages which the civil power proclaims to be such, as those between blacks and whites in some of our Southern States, she uses all reasonable means to make her practice conform to the law.

Conflict between the two societies in the field of education should be easily preventable in Catholic countries. Inasmuch as the pupils arc all Catholics, it is feasible to include formal religious and moral instruction in the curriculum of the State schools, and to give them the proper religious atmosphere. And this is the obvious duty of a Catholic State. It is possible and frequently desirable for a non-Catholic or a secular State to grant pecuniary aid to denominational schools, according to the amount and quality of general instruction imparted in them. This system obtains in England, in some of the provinces of Canada, and in some other countries. It is obviously impracticable for the State to provide religious training for the children of various denominations that attend the public schools; but the Church has a right to expect that the teachers will not directly or indirectly propagate doctrines that are contrary to the Catholic religion or to sound morality. Finally, neither the Catholic nor the non-Catholic State has a right to maintain a monopoly of education.

In the light of the foregoing discussion, it is evident that an amicable adjustment of the relations of Church and State in matters of common jurisdiction, ought to be comparatively easy in Catholic States. On Catholic principles the limitations of the two jurisdictions can be ascertained with the exercise of a reasonable amount of effort and good will. Even in non-Catholic and secular States, it is possible to arrive at an adjustment which, though not in full accord with Catholic claims, will forestall misunderstanding and actual friction. All that is necessary for this purpose is that the civil authorities should seek merely to promote the public welfare, and not to make difficulties for the Church.

9. (p. 291) Concordats

As a matter of historical fact, however, disagreements have arisen between the Church and even Catholic States concerning the mutual limits of their respective jurisdictions. In such cases, says Pope Leo, "rulers of the State and the Roman Pontiff come to an understanding touching some special matter." In other words, the two powers draw up and give their solemn assent to a sort of treaty or compact. To such an instrument has been given the name of concordat. Its general purpose is "to terminate, or avert, dissension between the Church and the civil powers." The great majority of concordats have been made to put an end to disagreements already begun, and have included some concessions by the Pope. Hence the statement of Pope Leo: "At such times the Church gives signal proof of her motherly love by showing the greatest possible kindness and indulgence." More than fifty concordats have been established since the year 1107, the majority of them in the nineteenth century.[17]

10. (p. 296) Rights of the Church Denied by Many States

In this paragraph Pope Leo summarizes the principal ways in which the secular theory of the State leads to the violation of the rights of the Church. Under the pretense of separating Church and State, governments have usurped control of marriage, confiscated Church property, disregarded those rights over education which are inherent in both the family and the Church, made their own determinations of the respective spheres of the two societies without consulting the Church, and in general treated the latter as merely one among several private societies, all of which arc regarded as completely subordinate to the State. Our non-Catholic fellow citizens who are unable to understand why churchmen denounce the doctrine of separation of Church and State, would see the matter in a clearer light if they reflected that these denunciations are uttered against a conception and a form of separation which is entirely different from that which obtains in the United States.

[17] Cf. *Catholic Encyclopedia:* Art., "Concordats." And the Concordat between the Holy See and Italy, signed February 11, 1929.

11. (p. 297) The Sovereignty of the People

Only the unthinking and the malicious will see in this paragraph a condemnation of democracy, or of the doctrine of "the consent of the governed." For the Pope specifically states that the theory which he denounces attributes political sovereignty to the people, "without any reference to God." As he had already pointed out in this encyclical, all authority, all sovereignty, all right to rule, whether in Church or State, comes ultimately from God. Therefore, even in democratic States, the people are merely the depositories, not the original source of political authority.[18]

Evidently a political community is bound to exercise its power in conformity with the reason and will of God. The people have not the moral right to do what they please with their governing authority. They have only the right to do that which is morally lawful. This is determined by the end of the State, which is the protection and furtherance of the common welfare. Now the common welfare is not promoted by a political theory or a political constitution which teaches, "that seditions may rightfully be fostered." A government which attempted to function on the basis of this doctrine would be a constant menace to social well-being.

Pope Leo condemns the theory, "that princes arc nothing more than delegates chosen to carry out the will of the people." This is obvious common sense. In a political constitution which includes hereditary kings or princes, it is specified and understood that the tenure and powers of these functionaries is not immediately and constantly dependent upon the approval of their subjects. Princes are, indeed, morally bound to exercise their authority in such a way as to promote the common good, but this object is not always quite the same as the aim of the popular will. When their rule has degenerated into tyranny, subversive of the social good, they may (as will be explained later in this volume) be deposed by the people; but this is an extreme situation. To accept this principle is very different from admitting that princes

[18] A full discussion of the sense in which the people are sovereign will be found in Chapter VII.

are at every moment subject to the will and disposition of the people.

Even republics do not admit that public officials must always carry out. the wishes of the people, or that their administration may at any time be terminated by the people. Elected officials are, indeed, frequently expected, and properly so, to carry out a few large and important policies to which they have committed themselves during the election campaign; but there is always an immense number and variety of matters upon which the people have made no pronouncement, and concerning which officials may properly exercise their own best judgment. When officials, as sometimes happens, violate their explicit pledges to their constituents, they are still entitled to hold office to the end of the term for which they have been elected. There is, indeed, an exception to this rule in States which have adopted the political device known as the recall. Even in this situation the matter must be conducted according to certain forms prescribed by law. A special election must be held at which the voters decide whether the offending official will be permitted to serve out the term for which he was originally chosen. This procedure and the theory underlying it, are quite different from the method and theory which arc condemned by Pope Leo. The former arc in accord with reason and good order; the latter are the expression of popular whim. The former safeguard the common welfare; the latter place it in constant jeopardy.

12. (p. 298) Freedom of Speech and Writing

In this paragraph Pope Leo explicitly rejects the doctrine of unlimited freedom of expression. The logic of his argument is unassailable. Speech and writing arc not ends in themselves. They are only means to human welfare. The chief constituents of welfare are virtue and truth; the chief obstacles, vice and error. Any action or institution which exposes men to the latter is contrary to human welfare, to social welfare, and, so far as possible, should be prohibited by the State. As a matter of fact, this principle is to some extent recognized in the laws of every enlightened people. False statements injurious to the neighbor,

teaching the young immoral practices, publishing and distributing indecent literature,—are scarcely anywhere recognized as legitimate liberties. No peculiar sacredness inheres in the vocal organs or in the faculties which produce the written or printed page. There is no more reason for permitting a man to say or write what he pleases than for permitting him to exercise any other set of muscles according to his unregulated pleasure and regardless of social welfare.

All this is too evident to need formal statement. Why, then, are men,—in modern times probably the great majority of men —so thoroughly devoted to the policy of freedom of expression? There are four main reasons or arguments. The first is that such freedom is among the individual's natural rights. In reply let it suffice to point out that all natural rights are only means to some rational end, such as life, liberty, and the development of human faculties. Now freedom of expression carried so far as to include the utterance of doctrines which are false and injurious to human welfare is not a rational freedom, since the end which it promotes is irrational. Consequently, there exists no such natural right, any more than there exists a natural right of a manufacturer to adulterate food. Of the two forms of adulteration that which injures mind and character is frequently more deadly than that which harms only the body. Therefore, the natural right of freedom of expression extends only to those opinions and doctrines which are true and righteous.

The second argument for unrestricted freedom of speech and writing maintains that in certain departments of thought the difficulty of distinguishing between truth and error, or between a socially beneficial and a socially harmful doctrine, is so great as to render the attempt to repress wrong opinions and teachings productive of more harm than good. This assumption is applied especially to the fields of religion, politics, and industry. In a preceding note, we have dealt with the subject of religious freedom. Here we shall merely repeat that all men of good will can find and recognize the true religion, and that when it is recognized and adopted by the vast majority of the citizens, the State ought to protect them by all legitimate means against the advocacy of false religious notions. It is quite as much the duty

of the State to safeguard the spiritual welfare of its members as their moral and physical welfare.

In politics and industry, however, the task of separating truth from error is much more difficult. There exists no infallible authority or institution to perform this service. Concerning the great majority of opinions in both politics and industry, no prudent man will stake his eternal salvation, or his reputation, on the proposition that his theories and policies are infallibly right and socially beneficial, and that all opposing doctrines are certainly wrong and subversive of the public welfare. Nevertheless, there are certain fundamental and primary political and economic principles which every democratic government assumes to be, if not certain, at least essential to good order and the welfare of the people. Among these arc the proposition that changes in the form of government should not be effected by force, and that industrial betterment must not be pursued by means of the destruction of property. Since actions of this sort are inadmissible, the *advocacy* of them is likewise improper and unjustifiable. Hence the laws of the United States provide for the deportation of aliens who indulge in this particular sort of freedom of expression. During the World War, liberty of speech was very considerably restricted on the assumption that actions or omissions which tended to prevent successful prosecution of the war, could not reasonably be advocated in speech or in writing. The safety of the nation was postulated as something about which there could be no legitimate difference of opinion, and against which the doctrine of free speech could not properly be invoked. Apart from these fundamental assumptions which involve the security of the State and of such important social institutions as private property, our laws permit complete freedom of expression, so long as it conforms to the elementary canons of public decency.

The third reason adduced for unlimited freedom of speech and writing is in some measure a corollary of the second. Since truth cannot readily be distinguished from error beforehand, all opinions should be permitted to prove themselves by the method of competition. In this contest between what is true and what is false, the former will ultimately triumph. The insuperable ob-

jection to this method lies in the word "ultimately." The injury done to the bodies and souls of millions of men through the unrestricted propagation of false opinions during hundreds of years, is scarcely offset by the fact that in the long, long run, these doctrines will have become discredited in the contest with truth. History admonishes us that truth and error can exist side by side for centuries, the latter as well as the former continuously winning new adherents. When the State adopts a policy of permitting the advocacy of socially injurious error, it neglects its duty to the numerous generations that come and go in the long interval before error is "ultimately" vanquished.

In the fourth place, unrestrained freedom of expression is defended on the ground that it is the smaller of two evils. To expose the minds and souls of men to wrong doctrine is deplorable, but to provoke continual strife in the commonwealth by attempting to repress it, is frequently a greater calamity. This is a sound practical rule. As we have seen in the discussion of religious freedom, the Church admits that such a policy may be preferable even when error appears in its worst form, namely, as a denial of the religion established by God. With much greater reason can the policy be applied to political and economic opinions, since the evil results of false doctrines in these fields arc not nearly so great as those that ensue upon the propagation of errors in religion. Moreover, the public repression of any beyond the obviously harmful political and economic doctrines is frequently unjust and almost always of doubtful justice, since it is impossible to determine with certainty whether the proscribed views arc really erroneous and socially injurious. Again, it is extremely difficult to frame legal prohibitions of expression which cannot by administrative abuse be carried much further than the intentions of the lawmakers. We had innumerable instances of this abuse in the administration of the espionage act during the Great War, and we have seen the intolerable degree of repression which would have been possible under some of the restrictive measures which were nearly enacted by Congress in the winter of 1920. In view of the foregoing and other practical considerations, it is clear that, save in the case of a few fundamental principles which arc essential to the existence of our

political and economic institutions, complete liberty of speech and of writing, within the limits of public decency, should be permitted and protected in the domains of politics and economics. In this situation the theory of competition is correct. To permit truth and error to compete for supremacy in the market place of discussion, is the less of two evils.

The sum of the matter is that while many of the current arguments for unlimited freedom of expression arc unsound, the practical policy that has been adopted by most modern States is in the main justifiable; but it is defensible only on grounds of practical expediency, not on the basis of natural rights or any other objective doctrine.[19]

13. (p. 299) "Intolerance" in the Syllabus

The celebrated Syllabus of 79 propositions condemned by Pius IX, has received more adverse criticism than almost any other document issued by the Holy See in modern times. In view of the principles that we have reviewed in the foregoing pages, however, the proscriptions contained in this document are justifiable and reasonable. The four propositions quoted on page 299 are fair samples of the proscribed doctrines. In the first of the four we find a denial of any rights to the Church except those which the State is willing to concede. The principle expressed in this proposition is fatal to the rights and welfare, not only of the Church, but of every other organization to which the citizens may wish to belong. If the civil power may justly determine the rights and activities of the Church, it may with greater reason exercise the same control over all lesser societies. Men could not maintain a trade union, a fraternal association, or a debating society if the State decided to forbid them. This is tyranny and absolutism. Of course, the State has a right to regulate and limit the activities of private societies to the extent that is necessary for public welfare, but it has no right to restrict their freedom beyond this point, much less to forbid their existence entirely. The right to form associations for common advantage is among the rights which men derive from reason and nature. It is not a

[19] For an authoritative discussion of this subject see the extracts from Pope Leo's encyclical on *Human Liberty* in Chapter XIII.

right which may properly be denied or arbitrarily restricted by the State.

The right of the Church to exist and perform all her necessary functions is not only natural, as in the case of private societies, but supernatural, inasmuch as the Church was directly established by Christ. Non-Catholics do not acknowledge this claim, but they need not do so in order to concede the reasonableness of immunity from arbitrary State interference. The rights and the freedom claimed by the Church in virtue of her divine foundation and mission do not injure any genuine public interest, nor limit any of the legitimate powers of the State. The best practical evidence of this statement is provided by the history of the Church in the United States of America.

Proposition XXXIX is a bold enunciation of the doctrine of State omnipotence. It asserts in effect that neither individuals nor associations have any rights which the State is bound to respect. The civil government may do what it pleases with the liberty, the property and the lives of the citizens. This monstrous doctrine was not the least of the forces which moved the people of the United States to enter the war against Germany. Prussian autocracy was discerned to be not merely a bad thing for the Germans, but a constant menace to democracy throughout the world.

The proposition which affirms that Church and State should be separated, was condemned because of its universal terms. Pope Pius IX did not intend to declare that separation is always unadvisable, for he had more than once expressed his satisfaction with the arrangement obtaining in the United States. What he condemned was the doctrine that in no country, in no circumstances, should Church and State be united. The untenableness of this doctrine has been sufficiently shown in preceding pages.

In the last of the four propositions quoted, it is asserted that unlimited liberty of religious and other opinions does not lead to the corruption of morals or the spread of religious indifference. This is a question of fact, and experience as well as common sense assures us that the license to preach immoral doctrines increases immorality, while indifference toward religion

on the part of the State tends to produce a similar attitude among many of the citizens.

14. (p. 300) Public Protection for All Forms of Religion

This sentence expresses briefly the true principle of religious toleration and its sole justification. In a genuinely Catholic State, public authority should not permit the introduction of new forms of religion; but when several denominations have already been established, the State may, and generally should, permit them all to exist and to function. The reason is that the attempt to suppress them would on the whole be injurious to the commonwealth.

15. (p. 306) Catholic Participation in Political Affairs

Pope Leo here states the ordinary Catholic doctrine concerning the duty of the citizens to take part in politics. Of course, he has in mind governments which exemplify the republican principle. The public welfare depends upon the conduct of government; the policies and activities of government are determined fundamentally by the citizens; therefore, the latter are morally bound to devote a reasonable amount of time and effort to the task of providing and promoting good government. For the individual citizen this is not merely a political right; it is a duty of legal justice, of that justice which obliges all members of the commonwealth to further the common good within the limits of their powers and opportunities."

[20] For a full treatment of this subject see chapter XV.

Chapter XXIV

CATHOLICISM AND AMERICANISM[1]

By Most Rev. John Ireland, D.D.

My religious faith is that of the Catholic Church—Catholicism, integral and unalloyed—Catholicism, unswerving and soul swaying—the Catholicism, if I am to put it into more positive and concrete form, taught by the supreme chieftain of the Catholic Church, the Bishop, the Pope of Rome.

My civil and political faith is that of the Republic of the United States of America—Americanism, purest and brightest; yielding in strength and loyalty to the Americanism of none other American; surpassed in spirit of obedience and sacrifice by that of none other citizen, none other soldier; sworn to uphold in peace and in war America's Star Spangled Banner.

Between my religious faith and my civil and political faith, between my creed and my country, it has been said, there is discord and contradiction, so that I must smother something of the one when I bid the other burst forth into ardent burning, that I must subtract something from my allegiance to the one when I bend my full energy to service to the other. Those who so speak misunderstand either my creed or my country; they belie either the one or the other. The accord of one with the other is the theme of the address I am privileged this evening to make.

No room is there for discord or contradiction. Church and State cover separate and distinct zones of thought and action: The Church busies itself with the spiritual, the State with the temporal. The Church and the State are built for different

[1] Address delivered at Milwaukee, Wis., on Aug. 11, 1913, at the mass meeting incidental to the Twelfth Annual National Convention of the Federation of American Catholic Societies.

purposes, the Church for Heaven, the State for earth. The line of demarcation between the two jurisdictions was traced by the unerring finger of Him who is the master of both. The law of God is—"Render to Cæsar the things that are Cæsar's; and to God the things that arc God's."

I rehearse a vital dogma of Catholic faith with regard to the mutual relations of Church and State—the solemn teaching of a sovereign Pontiff, Leo XIII. The Pontiff writes: "God has divided the government of the human race between two principalities, the ecclesiastical and the civil; the one being set over the divine, the other over human things. Each is supreme in its own sphere; each has fixed limits, within which it moves. Each is circumscribed to its own orbit, within which it lives and works in its own native right." Things civil and political are subject, as reason and equity demand, to the civil authority, Jesus Christ Himself having commanded that the things of Cæsar be given to Cæsar, as the things of God are given to God. Language could not be plainer, more emphatic, more authoritative with regard to the rights of the civil power, its independence within its proper zone of action. The position of the Catholic Church, consequently of Catholics, toward the nation or State, is defined in clearest terms by the highest authority of the Church.

What is to be feared from the Catholic Church? To priest, tu bishop, or to Pope, who—I am willing to consider the hypothesis—should attempt to rule in matters civil and political, to influence the citizen beyond the range of their own orbit of jurisdiction—that of the things of God, the answer is quickly made: "Back to your own sphere of rights and duties —back to the things of God!" Or, in like manner, should the State, or its officials, in law or in act, step beyond the frontier of temporal jurisdiction and dare lay hands upon the things spiritual and divine the answer is: "Beware, touch not the things which God has reserved to His duly appointed representatives in the spiritual order."

A recent proclamation from an anti-Catholic association in America reads: "We hold that no citizen is a true patriot who owes superior temporal allegiance to any power above that of

his obedience to the principles of the Constitution of the United States." The shaft is directed against a supposed tenet of the Catholic Church; it pierces the vacant air; it is a missive of pitiable ignorance.

Is the issue that of the temporal sovereignty exercised for ages in a part of Italy by the Roman Pontiffs, still claimed by their successor as an international right? But in the States of the Church the Pontiff was king as well as Pontiff. To his own kingdom his temporal rule was strictly limited. Beyond the frontier of his own States he claimed no civil or political power; none was allowed him by the most Catholic of nations, by the most loyal of Catholic believers.

Is the issue that of happenings in ages when bishops and popes, the sole visible tenants of authority able to wrest tribes and peoples from chaos and anarchy, were compelled by social needs and popular appeals to sit as civil lawmakers and judges —when the crozier and the tiara were the sole arms to stem the onslaught of imperial and regal despotism, and peoples in despair cried to them for mercy and help—or in ages when Christendom was of one creed in faith and morals, and special gifts of power were made to the Papacy, willed by all as an international arbitrator and peacemaker—when special opportunities for beneficent intermingling of the spiritual and the temporal in the life of nations were created for the Papacy, to which it was bound to give heed, under penalty of betraying the behests of charity and of justice, and turning back from the face of the earth the upwelling stream of culture and civilization?

Into past ages I do not now hold the field glass of scrutiny, although, were I to do so, I were readily able to decry glorious work done by the Papacy, and to the wondering eye of a modern world show it to have been ever the guardian of personal and social rights, ever the foster mother of popular liberty and popular justice, ever the resplendent mirror of Him of whom it was written: 'Tic passed by, doing good." My contention is, when and where, as in America, a new social order has arisen, within which the State or the nation wills to live of its native life and rights, the Church, freed from burdens imposed upon it by social phases of other times and other places, willingly

betakes itself to the folds of its own mantle, to the circle of its own spiritual orbit, saying with its founder and master: "To Cæsar the things that are Cæsar's, to God the things that are God's."

And now, in America, some do say, that the Pope of Rome is ambitious of temporal rule over America, of planting here the "Yellow and White" instead of the Star Spangled Banner; that priests and bishops are active agents of his yearnings; that Catholics drcam of the day when his command in civil and political matters will sway the White House and Capitol; that for this intent associations are nightly befitting themselves by sanguinary oath and secret drillings, to murder their fellow-citizens and in the name of a foreign potentate take forcible possession of the land of the brave and the home of the free! I allude to such wild elucubrations of diseased brains only to ask, in unanswered wonderment, how such follies can be thought out and acted upon, even by a handful of men, in the twentieth century, in America? But, of course, the insane are ever with us, and all the insane are not put into safe keeping.

The partition of jurisdiction into the spiritual and the temporal is a principle of Catholicism; no less is it a principle of Americanism. Catholicism and Americanism are in complete agreement.

The Constitution of the United States reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." It was a great forward leap on the part of the new nation towards personal liberty and the consecration of the rights of conscience. Not so had it heretofore been on the soil of America. Save in Maryland while reigned there the spirit of the Catholic Lord Baltimore, and in Pennsylvania under the sweet-tempered rule of William Penn, religious freedom was barred by law in the Colonies,—Protestant creeds warring one with the other, all warring with the Catholic. But it was decreed that the new flag must be unsullied by religious persecution, the new nation must be, on every score, the daughter of freedom, the guardian angel of personal rights in each and every American.

The proclamation of the Constitution was as the Milanese

edict of Emperor Constantine. Before the time of Constantine all things, even the things of God, were Cæsar's. The State made and unmade divinities; it was itself a divinity, its highest representative, the Emperor, claimed place among the Olympians, and incense was burned before his statue as before that of a god. The personal conscience was allowed no recognition. The subject must worship as Cæsar ordered. It was servitude most absolute. But at last the conqueror of the Milvian bridge spoke; liberty triumphed in the triumph of the Labarum. "We have determined, with sound and upright purpose," said Constantine, "that liberty is to be denied to no one . . . that to each one freedom is to be given to devote his mind to that religion which he may think adapted to himself." Conscience was made free in the Roman Empire by the Milanese edict; it was made free in America by the Federal Constitution. In the one and in the other, it is the injunction of the Master: "To Cæsar the things that are Cæsar's; to God the things that are God's."

By the terms of the Federal Constitution as by the teachings of the Catholic Church, no room is given in America for discord between Catholicism and Americanism, between my Catholic faith and my civic and political allegiance.

America is a Republic; the spirit, the form of government is democracy—the government of the people, by the people, for the people. Is there not here, it is asked, at least a touch of conflict between my religious faith and my civic and political faith? I tread upon easy ground, so plain are the teachings of the Catholic Church in favor of the rights of the people in matters of civic and political government. I again quote from the encyclical letters of Leo XIII. The Pontiff writes: "There is no power but from God. The right of command, however, is not in itself linked to any one form of government. One or the other form the commonw'caith may rightfully give to itself, provided such be really promotive of the common welfare . . . No reason is there why the Church should prefer one form of government to another, provided the form that is chosen be just in itself and favorable to the common good. Therefore, the rules of justice being duly observed, the people are free to

adopt that form of government which befits their temper, or best accords with their traditions and customs." America declared itself a Republic; its government is organized democracy. In America, according to the teachings of the Catholic Church, the republic is the sole legitimate government; to the republic Catholics are in conscience obliged to yield sincere and unswerving obedience.

God is the source and the giver of all power; of themselves men have no authority over other men. The authority of the parent over the child is from God, who created nature and so created the family; the authority of the State is from God, who willed that men should live within the fostering embrace of a social organism. In this sense, but in none other, a government, whatever the form, rules by divine right. God gives the power, but the people choose those that hold it, and mark out the conditions under which they do hold it. This is supreme democracy; it is the dogma of Catholicism.

In America the government is the Republic—the government of the people, by the people, for the people. With you, fellow Catholics, with you, fellow Americans, I salute the Republic. I thank God that the people of America are capable of possessing a government of this form. The Republic—it is the fullest recognition of human dignity and human rights, the fullest grant of personal freedom, that due respect for the rights of others and the welfare of the social organism may allow. Permit the barbarous onslaughts of lawlessness and anarchy to undermine its foundations or loosen the cement binding together its walls! Never, so long as life still throbs within our bosoms, alter it to empire or monarchy! Never, so long as our lips may praise it, or our hands wield arms in its defence.

Would we alter, if we could, the Constitution in regard to its treatment of religion, the principles of Americanism in regard to religious freedom? I answer with an emphatic No. Common sense is ours. Common justice is ours; a regard to our own welfare and safety is also ours. The broad fact is that the American people are divided in matters of religious belief. To the American people, to the whole people, does the country belong. What else, then, could the framers of the

Constitution have done, what else since their time could the legislators of the land have done, in equity towards all, in equity to the country as one nation, to its people as one people, but solemnly decree, as they did, as they continue to do, equal rights to all—rights to all, privileges to none? Necessarily religious freedom is the basic life of America, the cement running through all its walls and battlements, the safeguard of its peace and prosperity. Violate religious freedom against Catholics: Our swords are at once unsheathed. Violate it in favor of Catholics, against non-Catholics: No less readily do they leap from the scabbard.

Does Catholicism in America suffer from religious freedom, allowed equally to Catholics and to non-Catholics? Compare the lot of Catholicism in America to that of Catholicism in so many trans-Atlantic lands, where the tenets of Pagan Cæsarism, as to the supremacy of the State over the conscience of its subjects, do still prevail. There manacles bind hand and limb the bride of Christ: Here she walks, in queenly mien, free and unfettered, putting forth, without let or hindrance, the full exuberance of her native force and beauty, proving at every stepping that her life is all her own, since she lives it without outward help or prop; that her blossom and fruit are all her own, since they spring exclusively from her bosom, and of their own vigor defy triumphantly darkening clouds and battling tempests.

Had the Catholic Church not lived and thriven in freedom, truth were not its armor, grace from Heaven were not the comeliness of its contenance.

They know us little who accuse us of coveting civil and political power, that we may dim the splendor of the fairest flower in the garden of Americanism. Our combats, if combats there be, are never against the liberties of America, but in defense of them; never against Americanism, but against such of its sons whose souls never yet have thrilled in full response to its teachings and inspirations.

The charge is made, if not anti-American, the Catholic Church is un-American—it is in America an alien institution. More definitely the charge is this: The Catholic Church does not

bear the stamp, "Made in America." It is un-American to go across the Atlantic or the Pacific for aught that America uses or needs, even for its religion. Now the head of the Catholic Church is the Bishop of Rome, a foreigner; its general councils, composed of men of all nations are foreigners in the majority; Eurojieans, Asiatics, Africans, legislate in faith and morals for America. Why not a Pope strictly American? Why not councils, as those of other religious bodies, exclusively made up of Americans—capable, as only Americans may be supposed to be, of interpreting the American mind and guiding the American aspiration?

The late Bishop Doane of Albany once wrote: "It is hard to find any other word (than that of 'alien') which describes the whole communion of a Church which owes its highest allegiance to a single head, who is a foreigner across the sea." A few weeks ago, in the *Yale Review,* the secretary-general of the university while treating of what he is willing to call the helpful influence of the Catholic Church over recently arrived immigrants, complains: "But it [the Catholic Church] links them [the immigrants] with their past rather than with that of the United States. It has been outside the main currents of the Anglo-Saxon progress. Its emphasis is neither on freedom nor on democracy; so unless it proves untrue to its own ideal, it will not satisfy the American people." To Bishop Doane, Catholicism is "an alien" in America, objectionable to Americans, because its sovereign Pontiff is not an American, living in America. Anson Phelps is sure that Catholicism, to satisfy Americans, should have been woven in a loom-room even of Anglo-Americanism. In the June number of the *Atlantic Monthly,* a writer heads his article with this caption: "Reasonable Hopes of American Religion," and actually delineates a creed suitable in his judgment to the people of America.

Faith and morals made in America on a design strictly American! Great and good as is America, it must not arrogate to itself the realm of the Almighty God, that of faith and morals. Shall we call the Almighty God a foreigner? Yet He is not exclusively the God of America. Shall we call the Saviour of Calvary a foreigner? Yet He was neither a native nor a natural-

ized American, and His message was: "Teach all nations"—instead of teach only America! And now shall we call the Bishop of Rome a foreigner, "an alien," because he stands before the world the universal teacher, the Vicar of Jesus Christ, teacher of all nations, teacher of the whole human family?

Argue that the Almighty God is not the supreme author and norm of an eternal righteousness, that Jesus Christ is not the proven revealer of the thoughts and the love of the Almighty God, that the Bishop of Rome is not the historic successor of Christ's apostolate—then, counsel, perhaps, an American-made Church for Americans, an American-made code of faith and morals. But religion is not a product of the mind of the individual man, or of the environment within which he lives; it is not a sheer human growth, changeable as the seasons of the year, fitful and capricious as the likes and dislikes of man and of peoples.

Religion is the mind and the will of God, existing as God exists, objectively outside of men and of peoples, superior to all in men, exacting from man the obedience due by the creature to the creator. The question is never—what is it that suits a man, or a people, but what is it that God has imposed upon men by the eternal laws of His supreme righteousness, or by the teachings of His historic revelations? What Americans require is, not an American-made, but a God-made religion. And so, at the bar of American common sense itself, the proposals of the writer of the *Atlantic Monthly* must only be—as he himself despairingly inclines to term them—"drcams that are the shadows of hopes, hopes that are the shadows of dreams."

The Catholic Church is extra-American, supra-national, begotten for all nations, not for America alone; its supreme Pontiff is extra-American, supra-national—a foreigner on no spot of earth's surface, everywhere at home, as the spiritual father of all tribes and of all peoples who seek divine truth from a universal God and a universal Saviour.

And this, the beauty; this, the grandeur of the Catholic Church, that it is Catholic, as the eternal God is Catholic, as the salvation given by Jesus Christ is Catholic. Narrowness, provincialism in religion, in faith and morals, on the first face

of things, is a perversion of God's eternal law, and of the revelation given to men, 1900 years ago. The days of tribal religions are past; they must not be revived in America.

Another charge of un-Americanism—the attitude of the Catholics toward State schools. My answer is quickly at hand. The State takes to itself the task of instructing the children of its people in branches of secular knowledge; in order that this be done the more efficiently and the more generally, the State pays from the public treasury the financial cost of the schools opened under its patronage. Do Catholics make objection to the task or to the financial expenditures it entails?

Convinced they are, as the most zealous supporters of State schools, that no child, whether for its own, or for the sake of the State, should grow up without an adequate share of secular knowledge; and convinced no less are they that it is right and proper on the part of the State to disburse its funds in favor of universal secular instruction. What then our claim? One that we most licitly put forth on behalf of America itself—that this secular instruction be given so that the religious creed of the least of the little ones be not made to suffer; that it be given so that the influences of religion—influences, however much outside the direct grant of the civil power, still vitally necessary to the social life and security of the State itself, as they are to the spiritual life of the souls of its citizens—be not contaminated or nullified. Not against State schools, as such, do I raise objection, but as to the methods in which they work—methods that, whatever the theory, do in fact consecrate secularism as the religion of America, and daily are thither driving America with the floodtide of a Niagara. Somehow, secular knowledge should be imparted to the child so as not to imperil its faith in God and in Christ. Prove to me, I say, that this contention does not fully fit into the Constitution of the United States, that in making it I have not in mind the welfare, the salvation of America—prove this before you denote me as un-American.

A pernicious mistake is made regarding our complaint of the methods by which State schools are conducted. It is, that Catholics are looking exclusively to themselves and to their financial

interests. Not so at all: We look to ourselves; but even more so, we look to the people of America, to the Republic of America. We need not be much concerned for ourselves. We have our Catholic schools; to-morrow we shall have them in greater numbers, where our children receive secular knowledge without peril to faith and morals. Nor do we count the cost of maintaining those schools, in view of the priceless protection they give to faith and morals. But the vast population around us is limited to schools of secularism—and in this way secularism is fast becoming the religion of America. Say what you will, to-day, in America, the evil is the decay of religion, and, in logical sequence, the decay of morals. In both instances the cause of the decay is the enforced secularism of the State schools. Others than Catholics, heedful observers and intelligent thinkers, admit the evil, admit the cause and give the alarm. I trust to the awakening common sense and patriotism of the American people to discover the remedy. Meanwhile in telling of the evil and of the cause, my right hand on my conscience, I rank myself among truest and most loyal Americans.

An axiom of Americanism is "equal rights for all," "fair play," "the square deal," as it has been termed. That, and naught else, is the demand of Catholics in America. Catholics demand their rights—all the rights guaranteed to American citizenship by the letter and the spirit of the Constitution; and for the acquisition and the preservation of those rights they shrink from no means or methods allowed by the Constitution and the laws of the land. Were they to act otherwise, they were the unworthy sons of America. The rights of Catholics are the rights of the personal conscience of the Catholic citizen. It is not the Catholic Church in its official name that comes into issue; it is the American citizen, whose religious faith is the faith of the Catholic Church. Not to know one's rights is low mindedness, not to defend them is cowardice. The true American, differing from us in religion, would despise us if we laid down our arms before bigotry and injustice, and by so doing disgraced the shield of Americanism, ever vowed to justice and to valor.

Do we, however, demand special privileges not accorded to

other citizens of America? No—never—no more than we would allow others special privileges not accorded to ourselves—less even than wc would allow such privileges to others. If the members of a Church, or a religious or a semi-religious organization of any kind, arises in America calling for special privileges, be the shame of un-Americanism their portion. Such a contention never will be the disgrace of Catholicism. The common law of the land Catholics propose for themselves; it is what they propose for others.

Catholic fellow-citizens, claim your rights—the rights given by the Constitution of the land, the American spirit of fair play, the laws of American citizenship. But in doing this be on your guard, lest even in slightest semblance you give offence to men too ready to take offence. Be sure before you act that reason and justice are with you. Act always in calmness, certain always that, upon proper presentation of your case, sooner or later America will deal rightly with you. Remember that your complaint is not against the American people, but against individuals, or small classes of men, who, whatever their nominal Americanism, are beyond its sweetest whisperings, below its rapturous elevation of thought and sentiment.

Of the American people this must be said—I say it from my heart, in full knowledge—a people more deeply penetrated with the sense of civic and political justice, more generous in concession of rights, where rights belong, more respectful of their every brother, their every fellow-citizen, is not in existence on the broad surface of the globe. This my tribute to the American people, the verdict my fifty years of private and public commingling compel me to pronounce.

Good citizenship is the need of America, the basis of its safety, the spring of its hopes. It is the imperious law of Catholicism. I say the law of Catholicism—the law, consequently, of all who live in spirit, who obey its mandates. Those who bear the name of Catholic, but are faithless to the injunctions of their religion I disown. They are bad citizens despite their creed, which with all the forces innate in it makes for good citizenship. To the Catholic, obedience to law is a religious obligation, binding in God's name, the conscience of the citizen.

"Let every soul be subject to higher powers; for there is no power but from God; and those that are, are ordained of God. Therefore, he that resisteth the power resisteth the ordinance of God. And they that resist purchase to themselves damnation."

I do not discuss the hypothesis of laws wrong in morals, clearly beyond the province of the civil power, violations of the rights of the personal conscience. Such laws were not ratified by the Supreme Master of righteousness. Personal conscience is the ultimate asylum of the soul, in presence of civil or of ecclesiastical authority. Both Americanism and Catholicism bow to the sway of personal conscience.

It is Americanism that the ballot box is the sanctuary of good citizenship—opening its doors only to the weal and honor of the country. A sacrilege it is to step towards it with bribe in hand, fraud in mind, to reach towards it the offering of selfishness, or of injustice. None more careful of the unstained ballot box than the good Catholic, loyal to the Catholic faith; America is the sole issue before him—its weal for honor. Aught else in mind or in heart, he is a traitor to his creed, as he is a traitor to his country.

The best men for the office, whatever the religious creed of the man. To put a Catholic into office, merely because he is a Catholic, though otherwise unworthy and incapable, is a crime against America, a sin against the Almighty God.

In choosing his candidate the Catholic voter is the freest of the free. It is a calumny that we deeply resent, to say that in civic and political matters Catholic voters are under the influence of the Church. Priests and bishops do not dictate the politics of Catholics; if they strove to do so their interference would be promptly repulsed. It is of public knowledge that the Catholic vote is distributed among the several political parties of the country. To speak of myself, privately and publicly as a citizen, I give my allegiance to a particular political party. Do I dare preach from my pulpit the tenets of that party to the discredit of another? Do I dare allow that, if heeded at all by others, my choice of a ballot should or could receive other attention than that due to its civic and political merit? As a matter of fact legions of Catholic voters in America believe me hopelessly

wrong in politics. As a citizen I may regret that my political influence is not wider; as a Catholic I am glad of the independence of the citizenship of America.

There is in America no Catholic political party, nor should there be. As a matter of course, were a special issue raised in which rights of Catholics were menaced the conscience of Catholics were impelled to defend those rights on the ground of American fair play itself. That—and nothing more.

Now and then I myself have made the complaint that in America, Catholics are not represented in the higher offices of the land projx)rtionately to their numbers. My words were interpreted as if I had urged Catholics to take political control of State and Nation in the interest of the Catholic Church. Nothing is further from my mind. My sole contention is that, seemingly, Catholics are lacking in legitimate civic ambition, or in high civic qualifications, else their fellow-Americans would have been more willing to honor them. Is this position not squarely American—equal rights to all, provided the merit be equal? I repeat the lesson to Catholics who now hear or may later hear my words. For your own sake, for the sake of America, upward be your march in social and political ambition, in ability to render service to the country, in moral worthiness, in intellectual culture; then trust yourselves to the social and political justice of your fellow-Americans. Some Catholics there are who cornplain that hostility to their religion keeps them in the dark vale, while too often the fact is that their own shortcomings forbid them to ascend to the sunlit hills.

Either they have not fitted themselves for high positions, or they have been without the legitimate ambition to honor themselves by giving to the country highest and best service. I have said, trust to the justice of fair play of your fellow-citizens. Should, however, the particular case arise where it is plain you are set aside solely because you are Catholics, then, in the name of Americanism, protest—so loudly that never again will similar insult be offered to your American citizenship.

I have told of the American Catholic in time of peace. Shall I tell of him in time of war? Here I proffer no argument; I relate a historic occurrence. It was at Gettysburg, fifty years

ago the second day of July, 18G3. The command is hurried to the Irish Brigade to check the onrush of General Anderson's Confederates. The chaplain, the Rev. William Corby, leaps to the top of a large boulder: "The Catholic Church," he shouts, "refuses Christian burial to the soldier who turns his back to the foe or deserts his flag," adding that he is ready to impart sacramental absolution to those who in their hearts make a sincere act of sorrow for sin. All are on their knees; General Hancock in his saddle, removes his hat; the absolution is given; the charge is made; the Confederates flee backwards.

Gettysburg is but one of a hundred instances my tongue could easily name. Somehow, Catholicism and Americanism commingle graciously their intertwinings when the honor of the Star-Spangled Banner is in peril.

As a religion Catholicism is in the arena, with the spiritual arms forged by its founder—faith, hope, and charity. It is avowedly expansive and propagandist. What else, so long as the divine commission read: "Going, therefore, teach ye all nations."

Is America to be Catholic in religion? Fain would I have it so. I am not, however, so ignorant of history and of present conditions as to imagine that the goal is within near reach. But Catholicism in America, all consideration given to ebb and flow, is growing apace. I will not deem myself in error when I estimate the Catholic population of the United States to be 18,000,000, to which figure arc to be added nearly ten other millions, if we number all whom to-day the flag owns or protects.

Need America fear the spread of the religious creed of Catholicism? In reality the question is none other than this: Need America fear the spread of the Gospel of Christ? If the Catholic Church wins in the battle with unbelief, or with the present varied forms of Christianity, it will only be because it demonstrates in itself the perpetuity of the Kingdom of Christ, to which solely it makes its appeal. Its doctrines, its life and action, must be those of Christ, else, as it should do, it vanishes from the scene. Argument in opposition to its claim as the religion of Christ, it calmly awaits. Of arguments it does not complain. It only asks that passion be absent from the contest, that cal-

umny and misrepresentation be not made use of—promising on its part that whatever on this score the tactics of offence other than those of truth and charity—the methods of the Lord Himself. The work of expansion, as done by the Catholic Church, will be the work of peace and of love. No social discord can come from it—no break in the harmony that should sweeten the ties binding together fellow-citizens and neighbors in the common service of a common country.

To the civil and political institutions of America no harm can come from the spread of Catholicism. Yea—to those institutions Catholicism brings elements most vital to their life and growth —those of a positive, authoritative religion. Never does materialism beget or sustain a well-ordered social organism; never does a vague uncertain Christian sentiment give to it strength and cohesiveness. The Catholic Church puts forth a clear and definite message; it speaks with authority. In its dogmas and enactments it is thoroughly social, laying supreme stress on the principles of law and order, so necessary to society, especially in a free democracy. It teaches that disobedience to law is a sin against God; that society is from God; that to undermine the foundations of society, to make null its purposes and mission, is to resist the ordinance of God. It teaches the sanctity and the indissolubility of marriage, setting its whole power in restraint of that terrible plague of divorce, so ruinous to-day of the family hearthstone, the fundamental unit of the whole social organism.

And it teaches, most firmly and most imperiously, those principles of moral righteousness that repress passion and self-interest, the fatal foes of the social organism; and it teaches, also, as the final outcome of earth's strugglings, the inspiring doctrine of hope in another life which alone dispels the pessimism of despair, the ferocious thoughts and acts to which this pessimism must needs give birth. To-day—blind they are who do not see the awful peril—society is close to precipice and abyss. The cause is the decay of religion. Salvation for the social organism is in the name and the power of the ever living God, the potent agency to preach God and uphold His authority in the Catholic Church.

I repeat my profession of faith—my religious faith, Catholicism; my civil and political faith, Americanism.

Some twenty years ago, on a memorable occasion, an illustrious prelate, at that time the official representative of Pope Leo XIII, said to the Catholics of America: "The Gospel of Christ in one hand, the Constitution of the United States in the other, go forth to work and to victory." Our signal of combat! It is the word of Francis Satolli: It is Catholicism and Americanism.

THE END

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